

STATE OF MINNESOTA

EIGHTY-SIXTH SESSION — 2009

 FIFTY-SEVENTH DAY

SAINT PAUL, MINNESOTA, SUNDAY, MAY 17, 2009

The House of Representatives convened at 1:30 p.m. and was called to order by Al Juhnke, Speaker pro tempore.

Prayer was offered by the Reverend Dennis J. Johnson, House Chaplain.

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

The roll was called and the following members were present:

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

A quorum was present.

The Chief Clerk proceeded to read the Journal of the preceding day. Urdahl 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. 1623 and H. F. No. 1825, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Urdahl moved that S. F. No. 1623 be substituted for H. F. No. 1825 and that the House File be indefinitely postponed. The motion prevailed.

SECOND READING OF SENATE BILLS

S. F. No. 1623 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Falk; Greiling; Hausman; Lieder; Johnson; Mahoney; Atkins; Slocum; Benson; Hilty; Anzels; Kahn; Murphy, E.; Hornstein; Hosch; Ward; Knuth; Lesch; Solberg; Davnie; Clark; Eken; Sailer; Bly; Carlson; Peterson; Otremba; Koenen; Mullery; Nelson; Lillie; Persell; Slawik and Haws introduced:

H. F. No. 2395, A bill for an act relating to state government; repealing unallotment authority; repealing Minnesota Statutes 2008, section 16A.152, subdivision 4.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Johnson and Atkins introduced:

H. F. No. 2396, A bill for an act relating to telecommunications; amending regulation of cable communications systems; providing regulation of state-authorized video service providers; amending Minnesota Statutes 2008, sections 238.02, by adding subdivisions; 238.03; proposing coding for new law in Minnesota Statutes, chapter 238.

The bill was read for the first time and referred to the Committee on Commerce and Labor.

Slawik introduced:

H. F. No. 2397, A bill for an act relating to education; requiring reports of financial and property losses involving theft in public schools; proposing coding for new law in Minnesota Statutes, chapter 123B.

The bill was read for the first time and referred to the Committee on K-12 Education Policy and Oversight.

Urdahl introduced:

H. F. No. 2398, A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for Bertram Chain of Lakes Regional Park.

The bill was read for the first time and referred to the Committee on Finance.

Mahoney, Urdahl, Mariani, Johnson and Dean introduced:

H. F. No. 2399, A bill for an act relating to capital improvements; authorizing the sale and issuance of state bonds; appropriating money for a grant to the city of St. Paul for a regional baseball facility.

The bill was read for the first time and referred to the Committee on Finance.

Morrow introduced:

H. F. No. 2400, A bill for an act relating to taxation; providing a property tax credit for agricultural property used in a farm operation that has incurred economic losses due to the H1N1 virus; proposing coding for new law in Minnesota Statutes, chapter 273.

The bill was read for the first time and referred to the Committee on Taxes.

Gunther; Torkelson; Urdahl; Marquart; Magnus; Kelly; Cornish; Anderson, P.; Hamilton and Davids introduced:

H. F. No. 2401, A bill for an act relating to agriculture; appropriating money for grants to certain pork producers.

The bill was read for the first time and referred to the Committee on Finance.

Gardner and Anzelc introduced:

H. F. No. 2402, A bill for an act relating to commerce; regulating the purchase, return, and collection for recycling of lead acid batteries; modifying certain charges; amending Minnesota Statutes 2008, sections 325E.115, subdivision 1; 325E.1151, subdivisions 1, 3, 4.

The bill was read for the first time and referred to the Committee on Commerce and Labor.

Dettmer; Reinert; Anderson, B.; Severson; Newton; Shimanski; Magnus; Hamilton; Lieder; Drazkowski and Seifert introduced:

H. F. No. 2403, A bill for an act relating to the legislature; proposing an amendment to the Minnesota Constitution, article IV, section 4; providing for temporary successors to members of the legislature called into active military service; providing for implementing statutory language; proposing coding for new law in Minnesota Statutes, chapter 3.

The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections.

Brod, Emmer, Buesgens, Dean, Zellers, Gunther, Peppin, Shimanski, Dettmer, Drazkowski, Gottwalt, Sanders, Loon, Hamilton and Torkelson introduced:

H. F. No. 2404, A bill for an act relating to taxes; individual income; allowing an additional personal exemption and providing an alternate even rate tax; amending Minnesota Statutes 2008, section 290.01, subdivision 19b, as amended; proposing coding for new law in Minnesota Statutes, chapter 290.

The bill was read for the first time and referred to the Committee on Taxes.

Reinert; Dettmer; Newton; Severson; Anderson, B.; Lieder; Norton; Ruud; Jackson; Rosenthal and Sterner introduced:

H. F. No. 2405, A bill for an act relating to the legislature; proposing an amendment to the Minnesota Constitution, article IV, section 4; providing for temporary successors to members of the legislature called into active military service; providing for implementing statutory language; proposing coding for new law in Minnesota Statutes, chapter 3.

The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections.

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.

There being no objection, the order of business reverted to Petitions and Communications.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 14, 2009

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

Dear Speaker Kelliher:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State Chapter No. 79, House File No. 1362, the omnibus health and human services bill, with the exception of the following line item veto:

Page 373, line 11: A \$381,081,000 appropriation for fiscal year 2011 for General Assistance Medical Care grants.

The rate of growth in health and human services spending is forecasted to grow by approximately 15 percent in the next biennium and approximately 30 percent in the following biennium, and that rate is unsustainable. In the 2010-2011 biennium, my budget recommendations for health and human services saved roughly \$1.67 billion in the general fund. The budget adopted by the legislature in this bill saves substantially less — \$613.4 million. I encourage legislators to continue working next session to slow the growth in the state's human services spending.

The impact of this item veto and related, anticipated unallotments will not occur immediately. As a result, the legislature will have an opportunity to address this change further if it chooses. Additionally, many individuals now eligible for GAMC may be eligible under the MinnesotaCare program.

Although I have approved this bill, significant concerns remain regarding provisions prohibiting a special transportation broker, as well as the provisions related to the automatic renewal of MinnesotaCare eligibility.

I am also disappointed in the county human services redesign provisions contained in the bill. They are timid and lack boldness. Counties can already do multi-county human services delivery, program by program, under current law. The bill's requirements for multiple binding agreements with the state simply add complexity and bureaucratic structure to the current process. I hope there will be legislative attention yet this session to improve upon the county human services redesign in the bill as well as other troubling provisions in the bill.

Sincerely,

TIM PAWLENTY
Governor

MOTION TO OVERRIDE LINE ITEM VETO

Huntley moved that page 373, article 13, section 3, subdivision 6, line 11, of Chapter No. 79, H. F. No. 1362, 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 Sertich and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Brynaert	Dill	Gardner	Hilty	Kalin
Anderson, B.	Buesgens	Dittrich	Garofalo	Holberg	Kath
Anderson, P.	Bunn	Doepke	Gottwalt	Hoppe	Kelly
Anderson, S.	Carlson	Doty	Greiling	Hornstein	Kiffmeyer
Anzelc	Champion	Downey	Gunther	Hortman	Knuth
Atkins	Clark	Draskowski	Hackbarth	Hosch	Koenen
Beard	Cornish	Eastlund	Hamilton	Howes	Kohls
Benson	Davids	Eken	Hansen	Huntley	Laine
Bigham	Davnie	Emmer	Hausman	Jackson	Lanning
Bly	Dean	Falk	Haws	Johnson	Lenczewski
Brod	Demmer	Faust	Hayden	Juhnke	Lesch
Brown	Dettmer	Fritz	Hilstrom	Kahn	Liebling

Lieder	McNamara	Obermueller	Rukavina	Slawik	Wagenius
Lillie	Morgan	Olin	Ruud	Slocum	Ward
Loeffler	Morrow	Otremba	Sailer	Smith	Welti
Loon	Mullery	Paymar	Sanders	Solberg	Westrom
Mack	Murdock	Pelowski	Scalze	Sterner	Winkler
Magnus	Murphy, E.	Peppin	Scott	Swails	Zellers
Mahoney	Murphy, M.	Persell	Seifert	Thao	Spk. Kelliher
Mariani	Nelson	Peterson	Sertich	Thissen	
Marquart	Newton	Poppe	Severson	Tillberry	
Masin	Nornes	Reinert	Shimanski	Torkelson	
McFarlane	Norton	Rosenthal	Simon	Urdahl	

All members answered to the call and it was so ordered.

The question recurred on the Huntley motion and the roll was called. There were 87 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Huntley	Loeffler	Otremba	Slocum
Atkins	Falk	Jackson	Mahoney	Paymar	Solberg
Benson	Faust	Johnson	Mariani	Pelowski	Sterner
Bigham	Fritz	Juhnke	Marquart	Persell	Swails
Bly	Gardner	Kahn	Masin	Peterson	Thao
Brown	Greiling	Kalin	Morgan	Poppe	Thissen
Brynaert	Hansen	Kath	Morrow	Reinert	Tillberry
Bunn	Hausman	Knuth	Mullery	Rosenthal	Wagenius
Carlson	Haws	Koenen	Murphy, E.	Rukavina	Ward
Champion	Hayden	Laine	Murphy, M.	Ruud	Welti
Clark	Hilstrom	Lenczewski	Nelson	Sailer	Winkler
Davnie	Hilty	Lesch	Newton	Scalze	Spk. Kelliher
Dill	Hornstein	Liebling	Norton	Sertich	
Dittrich	Hortman	Lieder	Obermueller	Simon	
Doty	Hosch	Lillie	Olin	Slawik	

Those who voted in the negative were:

Abeler	Dauids	Emmer	Howes	McFarlane	Severson
Anderson, B.	Dean	Garofalo	Kelly	McNamara	Shimanski
Anderson, P.	Demmer	Gottwalt	Kiffmeyer	Murdock	Smith
Anderson, S.	Dettmer	Gunther	Kohls	Nornes	Torkelson
Beard	Doepke	Hackbarth	Lanning	Peppin	Urdahl
Brod	Downey	Hamilton	Loon	Sanders	Westrom
Buesgens	Drazkowski	Holberg	Mack	Scott	Zellers
Cornish	Eastlund	Hoppe	Magnus	Seifert	

Not having received the constitutionally required two-thirds vote, the line item veto was not reconsidered and repassed.

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 9, 2009

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

Dear Speaker Kelliher:

I have vetoed and am returning House File No. 885, Chapter No. 77, for the reasons articulated in my May 8th letter to the legislature.

Sincerely,

TIM PAWLENTY
Governor

MOTION TO OVERRIDE VETO

Lenczewski 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.

The question was taken on the Lenczewski motion and the roll was called. There were 85 yeas and 49 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Huntley	Loeffler	Otremba	Sterner
Atkins	Falk	Jackson	Mahoney	Paymar	Swails
Benson	Faust	Johnson	Mariani	Persell	Thao
Bigham	Fritz	Juhnke	Marquart	Peterson	Thissen
Bly	Gardner	Kahn	Masin	Reinert	Tillberry
Brown	Greiling	Kalin	Morgan	Rosenthal	Wagenius
Brynaert	Hansen	Kath	Morrow	Rukavina	Ward
Bunn	Hausman	Knuth	Mullery	Ruud	Welti
Carlson	Haws	Koenen	Murphy, E.	Sailer	Winkler
Champion	Hayden	Laine	Murphy, M.	Scalze	Spk. Kelliher
Clark	Hilstrom	Lenczewski	Nelson	Sertich	
Davnie	Hilty	Lesch	Newton	Simon	
Dill	Hornstein	Liebling	Norton	Slawik	
Dittrich	Hortman	Lieder	Obermueller	Slocum	
Doty	Hosch	Lillie	Olin	Solberg	

Those who voted in the negative were:

Abeler	Anderson, S.	Buesgens	Dean	Doepke	Eastlund
Anderson, B.	Beard	Cornish	Demmer	Downey	Emmer
Anderson, P.	Brod	Davids	Dettmer	Drazkowski	Garofalo

Gottwalt	Howes	Mack	Pelowski	Severson	Zellers
Gunther	Kelly	Magnus	Peppin	Shimanski	
Hackbarth	Kiffmeyer	McFarlane	Poppe	Smith	
Hamilton	Kohls	McNamara	Sanders	Torkelson	
Holberg	Lanning	Murdock	Scott	Urdahl	
Hoppe	Loon	Nornes	Seifert	Westrom	

Not having received the constitutionally required two-thirds vote, the bill was not reconsidered and repassed.

CALL OF THE HOUSE LIFTED

Sertich moved that the call of the House be lifted. The motion prevailed and it was so ordered.

The Speaker called Hortman to the Chair.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

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

H. F. No. 702, A bill for an act relating to public safety; authorizing a pilot project to map state expenditures on children for various purposes; requiring a study on the collection and reporting of summary data relating to decisions that affect a child's status within the juvenile justice system; proposing coding for new law in Minnesota Statutes, chapter 16A.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

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

H. F. No. 1744, A bill for an act relating to government operations; creating technology accessibility standards for the state; establishing the advisory committee for technology standards for accessibility and usability; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 16C.02, by adding a subdivision; 16C.03, subdivision 4; 16C.08, subdivision 2; 16E.01, subdivisions 1a, 3; 16E.02, subdivision 1; 16E.03, subdivisions 2, 4, by adding subdivisions; 16E.07, subdivision 1; Laws 2009, chapter 37, article 2, section 3, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 16E.

COLLEEN J. PACHECO, First Assistant Secretary of 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. 362, A bill for an act relating to real estate; eliminating a requirement that homeowner's notice to building contractor of construction defect be in writing; amending Minnesota Statutes 2008, sections 327A.02, subdivision 4; 327A.03.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Knuth moved that the House concur in the Senate amendments to H. F. No. 362 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 362, A bill for an act relating to real estate; modifying homeowner notice requirements; amending Minnesota Statutes 2008, sections 327A.02, subdivision 4; 327A.03.

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 86 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Atkins	Eken	Huntley	Loeffler	Paymar	Smith
Benson	Falk	Jackson	Mahoney	Pelowski	Solberg
Bigham	Faust	Johnson	Mariani	Persell	Swails
Bly	Fritz	Juhnke	Marquart	Peterson	Thao
Brown	Gardner	Kahn	Masin	Poppe	Thissen
Brynaert	Greiling	Kalin	Morgan	Reinert	Tillberry
Bunn	Hansen	Kath	Morrow	Rosenthal	Wagenius
Carlson	Hausman	Knuth	Mullery	Rukavina	Ward
Champion	Haws	Koenen	Murphy, E.	Ruud	Welti
Clark	Hayden	Laine	Murphy, M.	Sailer	Winkler
Cornish	Hilstrom	Lenczewski	Nelson	Scalze	Spk. Kelliher
Davnie	Hilty	Lesch	Newton	Sertich	
Dill	Hornstein	Liebling	Obermueller	Simon	
Dittrich	Hortman	Lieder	Olin	Slawik	
Doty	Hosch	Lillie	Otremba	Slocum	

Those who voted in the negative were:

Abeler	Dauids	Emmer	Howes	McFarlane	Seifert
Anderson, B.	Dean	Garofalo	Kelly	McNamara	Severson
Anderson, P.	Demmer	Gottwalt	Kiffmeyer	Murdock	Shimanski
Anderson, S.	Dettmer	Gunther	Kohls	Nornes	Sterner
Anzelc	Doepke	Hackbarth	Lanning	Norton	Torkelson
Beard	Downey	Hamilton	Loon	Peppin	Urdahl
Brod	Drazkowski	Holberg	Mack	Sanders	Westrom
Buesgens	Eastlund	Hoppe	Magnus	Scott	Zellers

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

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. 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.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Loeffler moved that the House refuse to concur in the Senate amendments to H. F. No. 705, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

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. 1276, A bill for an act relating to health and human services; relieving counties of certain mandates; making changes to residential treatment facilities; county payment of cremation, burial, and funeral expenses; child welfare provisions; health plan audits; nursing facilities; home health aides; inspections of day training and habilitation facilities; changing certain health care provisions relating to school districts, charter schools, and local governments; amending Minnesota Statutes 2008, sections 62Q.37, subdivision 3; 144A.04, subdivision 11, by adding a subdivision; 144A.43, by adding a subdivision; 144A.45, subdivision 1, by adding a subdivision; 245.4882, subdivision 1; 245.4885, subdivisions 1, 1a; 256.935, subdivision 1; 256.962, subdivisions 6, 7; 256B.0945, subdivisions 1, 4; 256F.13, subdivision 1; 260C.212, subdivisions 4a, 11; 261.035; 471.61, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 245B; repealing Minnesota Rules, part 4668.0110, subpart 5.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Norton moved that the House refuse to concur in the Senate amendments to H. F. No. 1276, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

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. 1728, A bill for an act relating to human services; amending child care programs, program integrity, and adult supports including general assistance medical care and group residential housing; amending Minnesota Statutes 2008, sections 119B.011, subdivision 3; 119B.08, subdivision 2; 119B.09, subdivision 1; 119B.12, subdivision 1; 119B.13, subdivision 6; 119B.15; 119B.231, subdivision 3; 256.014, subdivision 1; 256.0471, subdivision 1, by adding a subdivision; 256D.01, subdivision 1b; 256D.44, subdivision 3; 256I.04, subdivisions 2a, 3; 256I.05, subdivision 1k.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Loeffler moved that the House refuse to concur in the Senate amendments to H. F. No. 1728, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

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. 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.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Atkins moved that the House refuse to concur in the Senate amendments to H. F. No. 1853, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

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. 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.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Simon moved that the House concur in the Senate amendments to H. F. No. 1053 and that the bill be repassed as amended by the Senate. The motion prevailed.

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; amending Minnesota Statutes 2008, sections 13.607, by adding a subdivision; 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.

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 86 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Huntley	Loeffler	Paymar	Solberg
Atkins	Falk	Jackson	Mahoney	Pelowski	Sterner
Benson	Faust	Johnson	Mariani	Persell	Swails
Bigham	Fritz	Juhnke	Marquart	Peterson	Thao
Bly	Gardner	Kahn	Morgan	Poppe	Thissen
Brown	Greiling	Kalin	Morrow	Reinert	Tillberry
Brynaert	Hansen	Kath	Mullery	Rosenthal	Wagenius
Bunn	Hausman	Knuth	Murphy, E.	Rukavina	Ward
Carlson	Haws	Koenen	Murphy, M.	Ruud	Welti
Champion	Hayden	Laine	Nelson	Sailer	Winkler
Clark	Hilstrom	Lenczewski	Newton	Scalze	Spk. Kelliher
Davnie	Hilty	Lesch	Norton	Sertich	
Dill	Hornstein	Liebling	Obermueller	Simon	
Dittrich	Hortman	Lieder	Olin	Slawik	
Doty	Hosch	Lillie	Otremba	Slocum	

Those who voted in the negative were:

Abeler	Davids	Emmer	Howes	Masin	Seifert
Anderson, B.	Dean	Garofalo	Kelly	McFarlane	Severson
Anderson, P.	Demmer	Gottwalt	Kiffmeyer	McNamara	Shimanski
Anderson, S.	Dettmer	Gunther	Kohls	Murdock	Smith
Beard	Doepke	Hackbarth	Lanning	Nornes	Torkelson
Brod	Downey	Hamilton	Loon	Peppin	Urdahl
Buesgens	Draskowski	Holberg	Mack	Sanders	Westrom
Cornish	Eastlund	Hoppe	Magnus	Scott	Zellers

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

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. 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.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Hornstein moved that the House concur in the Senate amendments to H. F. No. 1250 and that the bill be repassed as amended by the Senate. The motion prevailed.

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 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 116 yeas and 18 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Dean	Eastlund	Hamilton	Kohls	Severson
Buesgens	Dettmer	Emmer	Hoppe	Peppin	Shimanski
Davids	Drazkowski	Hackbarth	Howes	Scott	Zellers

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

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. 925, A bill for an act relating to employment; expanding the official measure of unemployment; requiring a report; directing use of certain appropriations; amending Minnesota Statutes 2008, section 116J.401, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116J.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Sertich moved that the House concur in the Senate amendments to H. F. No. 925 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 925, A bill for an act relating to employment; regulating the dissemination and calculation of the state unemployment rate; authorizing the use of funds; amending Minnesota Statutes 2008, section 116J.401, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116J.

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 120 yeas and 14 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Dauids	Eastlund	Holberg	Shimanski
Anderson, S.	Dettmer	Emmer	Peppin	Zellers
Buesgens	Draskowski	Hackbarth	Severson	

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

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. 211, A bill for an act relating to civil actions; statutory housing warranties; regulating recovery for breaches; amending Minnesota Statutes 2008, section 327A.05.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Swails moved that the House concur in the Senate amendments to H. F. No. 211 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 211, A bill for an act relating to civil actions; statutory housing warranties; regulating recovery for breaches; requiring a report; amending Minnesota Statutes 2008, section 327A.05.

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 86 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hornstein	Lieder	Norton	Smith
Anderson, P.	Doepke	Hortman	Lillie	Olin	Solberg
Atkins	Eken	Huntley	Loeffler	Otremba	Swails
Beard	Falk	Jackson	Loon	Paymar	Thao
Benson	Faust	Johnson	Mack	Persell	Thissen
Bigham	Fritz	Juhnke	Mahoney	Peterson	Tillberry
Bly	Gardner	Kahn	Mariani	Rukavina	Urdahl
Brynaert	Garofalo	Kalin	Marquart	Ruud	Wagenius
Bunn	Greiling	Kelly	McFarlane	Sailer	Welti
Carlson	Hansen	Knuth	Morgan	Scalze	Winkler
Champion	Hausman	Koenen	Morrow	Scott	Spk. Kelliher
Clark	Haws	Laine	Mullery	Sertich	
Cornish	Hayden	Lenczewski	Murphy, E.	Simon	
Davnie	Hilstrom	Lesch	Murphy, M.	Slawik	
Dill	Hilty	Liebling	Nelson	Slocum	

Those who voted in the negative were:

Anderson, B.	Demmer	Gunther	Kiffmeyer	Nornes	Severson
Anderson, S.	Dettmer	Hackbarth	Kohls	Obermueller	Shimanski
Anzelc	Doty	Hamilton	Lanning	Peppin	Sterner
Brod	Downey	Holberg	Magnus	Poppe	Torkelson
Brown	Drazkowski	Hoppe	Masin	Reinert	Ward
Buesgens	Eastlund	Hosch	McNamara	Rosenthal	Westrom
Davids	Emmer	Howes	Murdock	Sanders	Zellers
Dean	Gottwalt	Kath	Newton	Seifert	

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

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. 1505, A bill for an act relating to public safety; modifying publication date of data on trafficking to every two years; providing for first- and second-degree sex trafficking; increasing criminal penalties for certain sex trafficking offenses; modifying provisions on solicitation of prostitution; adding sex trafficking to the definition of crime of violence; amending Minnesota Statutes 2008, sections 299A.785, subdivision 2; 609.281, subdivision 5; 609.321, subdivisions 7, 7a, by adding subdivisions; 609.322; 609.324, subdivisions 2, 3; 611A.036, subdivision 7; 624.712, subdivision 5.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Paymar moved that the House concur in the Senate amendments to H. F. No. 1505 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1505, A bill for an act relating to public safety; authorizing commissioner of public safety to gather and compile data on human trafficking every two years; increasing criminal penalties for certain promoting prostitution/sex trafficking offenses; expanding the sex trafficking and labor trafficking crimes; adding the promotion of prostitution/sex trafficking crime to the firearm law's definition of crime of violence and the victim rights law's definition of violent crime; expanding the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; amending Minnesota Statutes 2008, sections 299A.785, subdivision 2; 609.281, subdivision 5; 609.321, subdivisions 7, 7a, 12, by adding a subdivision; 609.322; 609.324, subdivisions 2, 3; 611A.036, subdivision 7; 624.712, subdivision 5.

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 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Champion	Emmer	Hilty	Knuth	Marquart
Anderson, B.	Clark	Falk	Holberg	Koenen	Masin
Anderson, P.	Cornish	Faust	Hoppe	Kohls	McFarlane
Anderson, S.	Davids	Fritz	Hornstein	Laine	McNamara
Anzelc	Davnie	Gardner	Hortman	Lanning	Morgan
Atkins	Dean	Garofalo	Hosch	Lenczewski	Morrow
Beard	Demmer	Gottwalt	Howes	Lesch	Mullery
Benson	Dettmer	Greiling	Huntley	Liebling	Murdock
Bigham	Dill	Gunther	Jackson	Lieder	Murphy, E.
Bly	Dittrich	Hackbarth	Johnson	Lillie	Murphy, M.
Brod	Doepke	Hamilton	Juhnke	Loeffler	Nelson
Brown	Doty	Hansen	Kahn	Loon	Newton
Brynaert	Downey	Hausman	Kalin	Mack	Nornes
Buesgens	Drazkowski	Haws	Kath	Magnus	Norton
Bunn	Eastlund	Hayden	Kelly	Mahoney	Obermueller
Carlson	Eken	Hilstrom	Kiffmeyer	Mariani	Olin

Otremba	Reinert	Scott	Slocum	Tillberry	Winkler
Paymar	Rosenthal	Seifert	Smith	Torkelson	Zellers
Pelowski	Rukavina	Sertich	Solberg	Urdahl	Spk. Kelliher
Peppin	Ruud	Severson	Sterner	Wagenius	
Persell	Sailer	Shimanski	Swails	Ward	
Peterson	Sanders	Simon	Thao	Welti	
Poppe	Scalze	Slawik	Thissen	Westrom	

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

Madam Speaker:

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

S. F. No. 1009, A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; amending Minnesota Statutes 2008, sections 609.321, subdivision 12; 609.324, subdivisions 2, 3, 5.

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

Senators Torres Ray, Higgins and Ingebrigtsen.

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

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Lesch moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1009. The motion prevailed.

Madam Speaker:

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

S. F. No. 657.

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. 657

A bill for an act relating to energy; providing direction for the use of federal stimulus money for energy programs; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216C.

May 15, 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. 657 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. 657 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

DEFINITIONS; LEGISLATIVE NOTICE

Section 1. **FEDERAL STIMULUS FUNDING.**

Subdivision 1. **Definitions.** For the purposes of articles 1 to 6, the following terms have the meanings given them.

(a) "Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5, unless the reference is to "this act," which refers to articles 1 to 7.

(b) "Commissioner" means the commissioner of commerce.

(c) "Stimulus funding" or "funding" means funding provided to the state under the act for:

(1) energy efficiency and conservation block grants authorized under subtitle E of title V of the federal Energy Independence and Security Act of 2007, United States Code, title 42, section 17151, et seq.;

(2) the Weatherization Assistance Program authorized under part A of title IV of the federal Energy Conservation and Production Act, United States Code, title 42, section 6861, et seq.; and

(3) the State Energy Program authorized under part D of title III of the federal Energy Policy and Conservation Act, United States Code, title 42, section 6321, et seq.

(d) "Windows" or "energy-efficient windows" means new or replacement windows that are Energy Star qualified under federal guidelines or for windows for nonresidential structures it means windows of reasonably similar energy performance to Energy Star windows.

Subd. 2. **Stimulus funding allocation.** To the extent consistent with the act and other federal law and regulations, stimulus funding must be allocated and expended as provided under this act.

Subd. 3. **Administrative costs.** The commissioner may spend no more than five percent of the funds expended on programs under articles 2 to 4 for administrative costs of the programs.

Subd. 4. **Contractors; bidding.** Contracts funded in whole or in part under articles 2 to 4 must, to the extent practicable, ensure that bidding contractors are qualified and participate in available apprentice and training programs for all work performed. Bidding for contracts must, to the extent practicable, use the process established in Minnesota Statutes, section 16C.16, subdivisions 4, 5, 6, and 7, except that subdivision 12 does not apply.

Sec. 2. **LEGISLATIVE NOTICE.**

The commissioner shall notify the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and finance when releasing a request for proposals or awarding a grant greater than \$25,000 for a grant program authorized under articles 2 to 4.

ARTICLE 2

ENERGY EFFICIENCY

Section 1. **WEATHERIZATION.**

Subdivision 1. **Priority.** Priority must be given to serving the largest number of new weatherization clients consistent with federal eligibility requirements.

Subd. 2. **Rental units.** The commissioner shall attempt to increase the number of low-income rental units weatherized.

Subd. 3. **Shelters.** A shelter, as defined in Code of Federal Regulations, title 10, section 440.3, is eligible to receive weatherization assistance under this section.

Subd. 4. **Income eligibility.** Income eligibility limits for participants in the weatherization assistance program shall be the highest level allowed under federal law. The commissioner shall in a timely manner take all actions necessary to implement this requirement.

Subd. 5. **Solar heat.** An individual who receives assistance to provide solar heat through the Renewable Energy Equipment Program is eligible for weatherization assistance under this section, provided that the individual meets all other eligibility requirements for receiving weatherization assistance.

Subd. 6. **Federal waiver.** The commissioner shall apply for a waiver or otherwise seek authority from the United States Department of Energy to use funds under this section to weatherize abandoned and foreclosed residential properties acquired and rehabilitated with funds provided through the federal Neighborhood Stabilization Program.

Subd. 7. **Payments authorized.** Notwithstanding Minnesota Statutes, section 16A.15, subdivision 3, the commissioner may make payment to a weatherization service provider for allowable and eligible costs incurred for planning, capacity expansion, workforce mobilization, and training activities. Payment may be made for costs incurred on or after the effective date of an amendment to the weatherization service provider's contract that obligates the provider to comply with the requirements of the act.

Sec. 2. **RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.**

The commissioner shall coordinate with the Minnesota Housing Finance Agency to use stimulus funds in conjunction with the Minnesota Housing Finance Agency's financing programs, including, but not limited to, loans, grants, and rebates, and additional programs the Minnesota Housing Finance Agency or other entities may develop to finance energy efficiency improvements in dwellings, including the purchase and installation of energy efficient windows. Financing programs for which there is market demand must be prioritized.

Sec. 3. **INNOVATIVE ENERGY RESIDENTIAL EFFICIENCY PROGRAM.**

Subdivision 1. **Program.** The commissioner shall make a grant to a city of the first class located in the service area of Minnesota Power for an innovative residential energy efficiency program that must coordinate its activities with the state energy program, local government unit, weatherization program, utility conservation improvement

program, and private nonprofit funding sources. Stimulus funds must be matched \$1 for every \$4 of stimulus funds granted under this section and are available to the extent of the match. The program must include the following elements:

(1) provision of basic residential energy conservation measures;

(2) provision of more comprehensive residential energy conservation measures, including extensive retrofits and appliance upgrades;

(3) a plan to establish a revolving loan fund so that the program is sustainable over time; and

(4) innovative financing options allowing residents to finance energy efficiency improvements, at least in part, with energy savings.

Subd. 2. **Report.** By January 15, 2010, and October 30, 2010, the city must submit a report measuring and assessing the program's effectiveness and energy savings to the commissioner and the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and finance.

Sec. 4. **SMALL CITY ENERGY EFFICIENCY GRANT.**

Subdivision 1. **Program.** The commissioner shall make a grant for an innovative residential energy efficiency program in a small rural city with a population under 4,000 located in the service area of Minnesota Power that is currently working with that utility, the county housing and redevelopment authority, and other state and local housing organizations to enhance energy efficiency for residents and businesses. Stimulus funds must be matched \$1 for every \$4 of stimulus funds granted under this section and are available to the extent of the match. The program must include the following elements:

(1) provision of basic residential energy conservation measures;

(2) provision of more comprehensive residential energy conservation measures, including extensive retrofits and appliance upgrades;

(3) a plan to establish a revolving loan fund so that the program is sustainable over time; and

(4) innovative financing options allowing residents to finance energy efficiency improvements, at least in part, with energy savings.

Subd. 2. **Report.** By January 15, 2010, and October 30, 2010, the city must submit a report measuring and assessing the program's effectiveness and energy savings to the commissioner and the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and finance.

Sec. 5. **OUTREACH ACTIVITIES TO INCREASE RESIDENTIAL PARTICIPATION IN ENERGY EFFICIENCY ACTIVITIES.**

In order to maximize the number of new households participating in programs delivering residential energy conservation services under this act, the commissioner shall use stimulus funds to award grants on a competitive basis by September 1, 2009, to one or more organizations that are experienced in conducting outreach activities to partner with nonprofit and community organizations. Outreach activities must include, without limitation, households in low-income areas, small cities, and rural communities, and must reach all regions of the state. The methods used to contact households may include, but are not limited to, direct contact with households, advertising

in traditional and nontraditional media, distribution of literature, presence at community events, partnering with community organizations, and other innovative measures. The commissioner may contract to coordinate outreach efforts with a community-based organization with demonstrated regional or statewide capacity, including an organization established under Minnesota Statutes, section 216C.385.

Sec. 6. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS TO LOCAL GOVERNMENTS.

The commissioner shall award grants to local units of government to enhance energy efficiency and reduce energy use. Energy efficiency and conservation block grant funds may be used for grants for activities including, but not limited to, planning, consultant services, energy audits, implementing energy-efficient building codes and inspection services, and energy efficiency renovations, including window replacement, street lighting, and the installation of renewable energy devices used in public buildings. Grants may only be made to local units of government not receiving direct federal energy efficiency and conservation block grant stimulus funding.

Sec. 7. LOCAL GOVERNMENT AND SCHOOL DISTRICT RENOVATIONS.

(a) The commissioner shall award grants to local governments and school districts to make energy efficiency improvements in existing local government and school district facilities. The use of stimulus funds must be coordinated with the local public building enhanced energy efficiency program under Minnesota Statutes, section 216C.43, or other available financing programs.

(b) The commissioner shall prioritize lighting upgrades, energy-efficient windows, energy recommissioning, and other cost-effective energy projects that are ready for immediate implementation.

(c) The commissioner may require a local government or school district, as a condition of receiving a grant, to commit to implement future activities, including but not limited to staff training, that are designed to create additional energy or operating savings to the local government.

(d) The commissioner shall coordinate with the Department of Education to prioritize school district projects for funding under this section, consistent with the principles of statewide geographic distribution of projects, optimized energy savings, and an improved learning environment for schoolchildren.

Sec. 8. STATE GOVERNMENT BUILDING RENOVATIONS.

(a) The commissioner shall use stimulus funds to renovate state government buildings to enhance energy efficiency. The commissioner and the commissioner of administration shall select, fund, and implement state government building renovation projects using federal stimulus money. Priority must be given to lighting upgrades, window repair and replacement with energy-efficient windows, energy recommissioning, and other cost-effective energy projects that are ready for immediate implementation.

(b) In addition to other uses, funds may be used to advance public building enhanced energy efficiency program projects under Minnesota Statutes, section 16B.322, and for grants for a portion of costs incurred by state agencies in implementing energy efficiency improvements not part of that program.

(c) Funds may be used to develop a system and procedures to set energy-reduction goals for state buildings, to automate utility bill data and analysis, to develop a system for reporting monthly energy use relative to these state building energy-reduction goals, and to install individual metering devices for separate buildings.

(d) The Department of Administration may require a state agency, as a condition of receiving stimulus funds under this section, to commit to implement future energy-savings activities, including but not limited to staff training, that are designed to create additional energy or operating savings to the state agency.

(e) By January 15, 2011, and annually thereafter, the commissioner, in consultation with the commissioner of administration, must issue a report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over energy policy and finance on the activities and energy savings under this section.

Sec. 9. Minnesota Statutes 2008, section 16B.322, is amended by adding a subdivision to read:

Subd. 4a. **Financing agreement.** The commissioner of administration may, in connection with a financing agreement, covenant in a master lease-purchase agreement that the state will abide by the terms and provisions that are customary in net lease or lease-purchase transactions including, but not limited to, covenants providing that the state:

(1) will maintain insurance as required under the terms of the lease agreement;

(2) is responsible to the lessor for any public liability or property damage claims or costs related to the selection, use, or maintenance of the leased equipment, to the extent of insurance or self-insurance maintained by the lessee, and for costs and expenses incurred by the lessor as a result of any default by the lessee;

(3) authorizes the lessor to exercise the rights of a secured party with respect to the equipment subject to the lease in the event of default by the lessee and, in addition, for the present recovery of lease rentals due during the current term of the lease as liquidated damages.

Sec. 10. Minnesota Statutes 2008, section 16B.322, is amended by adding a subdivision to read:

Subd. 4b. **Master lease-purchase agreements not debt.** A tax-exempt lease-purchase agreement related to a financing agreement does not constitute or create a general or moral obligation or indebtedness of the state in excess of the money from time to time appropriated or otherwise available for the payment of rent coming due under the lease, and the state has no continuing obligation to appropriate money for the payment of rent or other obligations under the lease. Rent due under a master lease-purchase agreement during a current lease term for which money has been appropriated is a current expense of the state.

Sec. 11. Minnesota Statutes 2008, section 16B.322, is amended by adding a subdivision to read:

Subd. 4c. **Budget offset.** The commissioner of finance shall reduce the operating budgets of state agencies that use the master lease-purchase program under a financial agreement. The amount of the reduction is the amount sufficient to make the actual master lease payments.

Sec. 12. **ENERGY TECHNOLOGY TRANSFER CENTER.**

The commissioner shall award a grant to a nonprofit organization with extensive experience in the delivery of energy-efficient programs and technical analysis to develop an energy technology transfer center in this state.

Sec. 13. **NATIONAL ENERGY EFFICIENCY CENTER.**

(a) The commissioner shall develop a plan for a national energy efficiency center in this state to test energy efficiency equipment and systems to measure actual energy savings performance, to provide an ongoing assessment of energy efficiency best practices, and to coordinate with appropriate public and private entities to disseminate information and provide training on technology developments and best practices. In developing a plan, the commissioner shall collaborate with stakeholders, including but not limited to, the Center for Energy and the Environment, the Minnesota Center for Engineering and Manufacturing Excellence, and the Minnesota Technical Assistance Program at the University of Minnesota.

(b) The commissioner shall apply for a grant to create a national energy efficiency center in Minnesota if the federal Department of Energy or other entity makes funding available for that purpose.

ARTICLE 3

RENEWABLE ENERGY

Section 1. **DEFINITIONS.**

For the purposes of articles 3 and 4:

(1) "renewable energy" or "renewable energy system" means an energy technology that generates electricity or thermal energy from the following sources:

(i) solar;

(ii) wind;

(iii) hydroelectric with a capacity of less than 100 megawatts;

(iv) hydrothermal;

(v) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this item;

(vi) biomass, which includes, without limitation, landfill gas; rotting woody crops; crop residues; an anaerobic digester system; biomass gasification; the predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of (A) wastewater sludge or related by-products from publicly owned treatment works; (B) mixed municipal solid waste; or (C) refuse-derived fuel from mixed municipal solid waste;

(vii) a district energy system fueled primarily by biomass;

(2) "solar energy" has the meaning given to "qualifying solar energy project" in section 216B.2411, subdivision 2, paragraph (d);

(3) "solar electric" has the meaning given to "qualifying solar electric project" in section 216B.2411, subdivision 2, paragraph (f), except that the 100-kilowatt peak generating capacity limit does not apply; and

(4) "solar thermal" has the meaning given to "qualifying solar thermal project" in section 216B.2411, subdivision 2, paragraph (e).

Sec. 2. **RENEWABLE ELECTRIC GENERATION AND GEOTHERMAL FACILITY REBATES.**

(a) The commissioner shall award rebates to qualifying facilities that generate electricity from renewable energy or provide heating and cooling from a geothermal system and that:

(1) begin operation after July 1, 2009; and

(2) provide electricity or heating and cooling to:

(i) a homeowner's primary residence; or

(ii) a business with 20 or fewer full-time employees.

(b) The owner of a qualifying facility may apply to the commissioner for a rebate of the lesser of \$10,000 for homeowners or \$25,000 for businesses or 35 percent of the cost of the qualifying facility, including installation costs.

(c) The commissioner shall award rebates only from funds appropriated for that purpose and to the extent of those appropriations. Rebates must be made to eligible applicants in the order of the time of receipt of a complete application.

(d) For purposes of this section, "qualifying facility" means an electric generation facility with a capacity of less than 40 kilowatts that generates electricity from a renewable energy source or a geothermal system that provides heating and cooling.

Sec. 3. **SOLAR REBATE PROGRAM.**

The commissioner shall award rebates to homeowners and businesses that install solar energy projects.

Sec. 4. **SOLAR CITIES PROGRAM.**

The commissioner shall award grants to local units of government for the installation of large and small-scale solar electric or thermal projects, including innovative energy storage technology, in a geographically-concentrated area. The project must leverage funds from the federal Department of Energy to demonstrate the impacts of these projects on the electric grid, and the costs and benefits to ratepayers. The commissioner may develop matching requirements for these solar projects in order to maximize job creation and renewable energy development.

Sec. 5. **SCHOOL DISTRICT AND LOCAL GOVERNMENT RENEWABLE ENERGY GRANT PROGRAM.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Local government" means a public school district, home rule charter or statutory city, county, regional government, park district, port authority, or town.

Subd. 2. **Program established.** The commissioner shall award grants to units of local government to finance the purchase and installation of a renewable energy system or a geothermal heating and cooling system under this section.

Subd. 3. **Grant proposals.** The commissioner shall publish in the State Register a request for proposals from local governments for a grant under this section. Within 60 days after the deadline for receipt of proposals, the commissioner shall select grant proposals based on the following criteria:

(1) the reliability and cost-effectiveness of the renewable technology to be installed under the proposal, including integration of energy storage;

(2) the extent to which the proposal effectively integrates with the conservation and energy efficiency programs of the energy utilities serving the local government or school district;

(3) the extent to which the local government or school district has maximized other cost-effective energy efficiency and conservation improvements;

(4) the total life-cycle energy use and greenhouse gas emissions reductions per dollar of installed cost;

(5) the geographic distribution of grant recipients throughout the state;

(6) the percentage of total project cost requested;

(7) the extent to which the proposal uses parts manufactured or produced in the state in the assembly of a final product; and

(8) other criteria the commissioner may determine to be necessary and appropriate.

Subd. 4. **Educational programming.** A school district must integrate information about the renewable energy system for which a grant is received under this section in its educational programming.

Subd. 5. **Grant terms.** The maximum grant to a local government under this section may not exceed:

(1) for solar electric projects greater than or equal to 100 kilowatts rated capacity, the lesser of 40 percent of total project cost or \$200,000;

(2) for solar electric projects less than 100 kilowatts rated capacity, the lesser of 40 percent of total project cost or \$100,000;

(3) for wind projects greater than or equal to 40 kilowatts rated capacity, the lesser of 35 percent of total project cost or \$150,000;

(4) for wind projects less than 40 kilowatts rated capacity, the lesser of 35 percent of total project cost or \$25,000;

(5) for geothermal energy projects, the lesser of 35 percent of total project cost or \$100,000;

(6) for solar thermal projects, the lesser of 50 percent of total project cost or \$75,000; or

(7) for combined heat and power projects and district energy projects, the lesser of 35 percent of total project cost or \$200,000.

Sec. 6. **EMERGING RENEWABLE ENERGY INDUSTRIES GRANT PROGRAM.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Eligible business" means an organization that is engaged in or will engage in the manufacture of renewable energy systems, energy storage systems, or geothermal energy systems for heating and cooling, or components for renewable energy systems, energy storage systems, or geothermal energy systems for heating and cooling.

Subd. 2. **Program established.** The commissioner shall use stimulus funds under this section to award grants to an eligible business.

Subd. 3. **Grant purpose.** The commissioner may make grants to eligible businesses to assist in the development of renewable energy systems, energy storage systems, geothermal energy systems for heating and cooling, and businesses that manufacture components for these types of energy systems in this state.

Subd. 4. **Applications.** An applicant shall prepare and submit to the commissioner a written proposal detailing how the applicant will meet the purpose of the grant program and will meet the criteria listed in subdivision 5. An applicant must submit information that demonstrates the financial viability of the eligible business.

Subd. 5. **Selection criteria.** When awarding grants, the commissioner shall consider whether the applicant's proposal will:

(1) help establish Minnesota as a center for the manufacturing of renewable energy, energy storage, or geothermal system parts and systems;

(2) leverage both private funds and other public funds, including federal programs;

(3) develop renewable energy, energy storage, or geothermal technology supplier activity in this state;

(4) increase manufacturing that promotes or advances the green economy, as defined in section 116J.437, subdivision 1; and

(5) create jobs that will contribute to the green economy as defined in section 116J.437, subdivision 1, including jobs in rural areas and areas with high unemployment.

Sec. 7. **CONVERSION OF FORMER SCHOOL TO RENEWABLE ENERGY BUSINESS CENTER.**

The commissioner shall award a grant to the city of Kennedy to convert a former school building to use wind, solar, and geothermal energy and to house a renewable energy business center.

Sec. 8. **SOLAR ELECTRIC INSTALLATIONS.**

A contract, grant, loan, or other financial assistance for solar electric installations must to the extent practicable:

(1) require payment at the prevailing wage rate as defined in Minnesota Statutes, section 177.42;

(2) require that the installation of all listed electrical equipment is performed by licensed contractors;

(3) be awarded to the best value bidder as defined in Minnesota Statutes, chapter 16C; and

(4) require that the bid performance criteria must include, but are not limited to:

(i) the vendor's or contractor's primary place of business be located within the state;

(ii) a description of the vendor's or contractor's experience installing solar systems and the quality of those installations; and

(iii) the possession by the vendor's or contractor's key personnel of an installer's certification from a nationally recognized solar certification body.

ARTICLE 4

COMMERCIAL AND INDUSTRIAL SECTOR ENERGY PROJECTS

Section 1. **GRANTS TO COMMERCIAL AND INDUSTRIAL FACILITIES.**

(a) The commissioner shall award a grant to a port authority located in the electric service area of the electric utility with the largest number of commercial and industrial customers in this state for a program to provide for the design, financing, and installation of energy efficiency improvements and renewable energy systems in commercial facilities, industrial facilities, and facilities owned by a nonprofit organized under section 501(c)(3) of the Internal Revenue Code. Program financing must include a revolving loan fund component.

(b) Grant recipients may enter into agreements necessary to develop and implement a program under this section. A grant recipient may use up to two percent of the grant award for administrative costs of the energy project.

(c) A utility participating in projects receiving a grant under this section is entitled to claim the project's energy savings toward its energy savings goal under Minnesota Statutes, section 216B.241, subdivision 1c.

Sec. 2. **ENERGY PROGRAMS IN COMMERCIAL AND INDUSTRIAL BUILDINGS.**

(a) The commissioner shall award grants to economic development authorities or to owners of commercial and industrial facilities and facilities owned by a nonprofit organized under section 501(c)(3) of the Internal Revenue Code for the purpose of:

(1) installing energy efficiency improvements;

(2) installing devices that use renewable energy sources to generate electricity or to heat or cool a building; or

(3) a geothermal system for heating and cooling.

(b) To be eligible to receive a grant, a project funded under this section must begin operation after July 1, 2009.

(c) The commissioner shall provide forms for grant applications.

(d) The commissioner shall make a grant to a county economic development authority for development of a biomass energy facility, which has completed an economic and technical feasibility study, including a market potential and cellulosic feedstock analysis. The county in which the facility will be located must include an investor-owned utility, municipal utility, and cooperative electric association, and it must have adopted an essential services and transmission services ordinance as of May 15, 2009.

(e) Grants may also be made to improve the energy efficiency of facilities to displace fossil fuel energy inputs with energy derived from renewable resources via anaerobic digestion, biomass gasification, or other technologies, for combined heat and power or district energy system projects; or for projects using hydrothermal or geothermal energy in an integrated system for cooling, heating, and generating electricity. Grants may not be made under this paragraph for projects involving the combustion of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste.

(f) The maximum grant award under this section is \$500,000.

(g) When awarding grants under this section the commissioner shall consider:

(1) job retention and creation;

(2) improved energy efficiency and increased renewable energy production capacity;

(3) coordination with and leveraging of other resources to increase the total benefits derived from stimulus funding;

(4) timely implementation of funded activities;

(5) long-term sustainability of benefits derived from stimulus funds;

(6) geographic distribution across the state;

(7) compliance with the disadvantaged business enterprise requirements in Minnesota Statutes, section 16C.16, subdivisions 4, 5, 6, and 7, except that subdivision 12 does not apply; and

(8) ensuring that projects are cost effective and maximize energy savings per dollar of stimulus funding expended.

ARTICLE 5

MISCELLANEOUS

Section 1. **TRAINING AND WORKFORCE DEVELOPMENT.**

Subdivision 1. **Training plan and procedures.** (a) The commissioner, in conjunction with the Department of Employment and Economic Development, the Office of Higher Education, and Minnesota State Colleges and Universities shall develop and implement a plan and procedures to:

(1) train energy professionals needed to implement the energy programs described in articles 2 to 4, including but not limited to energy auditors, energy managers, and building operators;

(2) coordinate, oversee, and monitor the training and certification of energy professionals;

(3) allocate stimulus funding for the purposes of clauses (1) and (2) and to training providers; and

(4) provide energy code compliance and enforcement training necessary to comply with section 410 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

(b) Training strategies must be designed to meet the wide range of facilities managers and building sizes and types, and must protect the occupational health and safety of workers employed on these energy projects. Technical skills training must include insulation, air sealing, and mechanical work. Training may include an on-the-job component where the trainee travels to job sites with trained crews.

(c) The plan must include procedures to:

(1) train individuals already employed in implementing energy programs;

(2) recruit individuals to be trained to perform work in energy projects using stimulus funding who are unemployed, especially targeting communities experiencing disproportionately high rates of unemployment, including, but not limited to, low-income, youth, rural, or tribal communities and individuals in construction trades and crafts;

(3) ensure that the full capacity of current training providers is utilized, including, but not limited to, opportunities industrialization centers, skilled trades labor unions, tribal colleges or nonprofits working in tribal communities, community action partnerships, utility companies, higher education institutions, and nonprofit organizations with demonstrated expertise in energy efficiency;

(4) publicize job and contract opportunities through cost-effective dissemination via traditional and nontraditional media outlets, including, but not limited to, public service announcements and radio advertisements; and

(5) disseminate information about contract and employment opportunities generated by the programs. Particular effort must be made to publicize employment, job training, home energy auditing, weatherization, outreach, and other opportunities to community organizations, nongovernmental organizations, and media outlets that target disadvantaged groups, including, but not limited to, low-income, rural, tribal communities, and communities of color.

Subd. 2. **Training access and affordability.** (a) Unless prohibited by federal law or rule, and notwithstanding any other training funds available or expended for energy programs, the commissioner shall ensure access to and affordability of training for low-income persons who otherwise would be unable to afford the training, by providing funding to:

(1) prepare low-income persons for residential weatherization jobs; and

(2) support job training opportunities for low-income persons in residential and commercial energy efficiency and renewable energy-related trades.

(b) Funds expended under this subdivision may not exceed the amount necessary to train persons for the total number of green jobs created. The Department of Commerce shall work with the Department of Employment and Economic Development to maximize receipt of federal stimulus funding available for training and workforce development through the Workforce Investment Act.

(c) Training funds for residential weatherization jobs must be provided to weatherization service providers to partner with apprenticeship or similar on-the-job training programs and existing training providers, including, but not limited to, state colleges, opportunities industrialization centers, skilled trades labor unions, and nonprofit organizations with historic expertise in energy efficiency.

(d) Training funds to support residential and commercial energy efficiency and renewable energy-related trades must be distributed through a competitive application process.

(e) The expenditure of funds under this subdivision must be consistent with performance goals, timeframes, and all other requirements under federal and state law governing the expenditure of federal stimulus money.

Sec. 2. ACCOUNTABILITY AND TRANSPARENCY REPORTING.

The commissioner, after compiling information supplied by the commissioners of administration, education, and employment and economic development, and the Office of Higher Education, shall report on the progress of the programs funded by this act to the house of representatives and senate committees with jurisdiction over energy finance and workforce development policy by September 1, 2009, January 15, 2010, April 1, 2010, and September 1, 2010. The report must include a complete accounting of all federal stimulus money spent on the programs funded to the extent allowable by federal law, including, but not limited to:

(1) the specific projects funded, including the building owner and project manager, and, for nonresidential projects only, the project location;

(2) for weatherization projects, the number of units weatherized, including number of rental units weatherized, energy usage information, income data, and type, cost, and funding source of the weatherization measure installed;

(3) the number of jobs retained or created by each project, including data on hiring from communities experiencing disproportionately high rates of unemployment, including, but not limited to, low-income, rural, tribal communities, and communities of color;

(4) the total calculated and actual energy savings for each project;

(5) the remaining balances in each stimulus account;

(6) the nonstimulus money leveraged by stimulus money for each project;

(7) the training courses provided, including the location and provider of courses offered, the funding source for each training course, and the total number of trainees; and

(8) compliance with state prevailing wage, veterans, and disadvantaged business enterprise requirements.

The reports must be made available to the public on the Office of Energy Security Web site.

Sec. 3. **COMPETITIVE ENERGY ACTIVITIES.**

(a) The commissioner shall coordinate state and local government efforts to obtain competitive grants for energy-related purposes authorized by the American Recovery and Reinvestment Act of 2009. The commissioner shall consult with affected public or private entities, including utilities, to identify grant opportunities and develop timely grant applications to take advantage of those opportunities. The commissioner shall assess and publicize grant opportunities, assist state and local government entities to prepare grant applications, and provide other assistance the commissioner determines to be appropriate.

(b) The commissioner shall provide timely information on grant opportunities through the Minnesota Energy Information Center telephone hotline and Web site to assist the public and local units of government in accessing applications and information regarding competitive grants under this act.

ARTICLE 6

APPROPRIATIONS

Section 1. **WEATHERIZATION ASSISTANCE PROGRAM APPROPRIATION.**

Of the funds available to the state of Minnesota from the federal stimulus funding for the weatherization assistance program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, \$131,937,411 is appropriated to the commissioner of commerce. The funds must be administered consistent with the requirements in article 2, section 1. Of this amount, \$250,000 is for participation outreach activities in article 2, section 5; and \$1,000,000 is for training and workforce development consistent with article 5, section 1, subdivision 2.

Sec. 2. **ENERGY EFFICIENCY AND CONSERVATION BLOCK PROGRAM APPROPRIATION.**

Of the funds available to the state of Minnesota from the federal stimulus funding for the Energy Efficiency and Conservation Block Grant Program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, \$10,644,100 is appropriated to the commissioner of commerce. The appropriation must be distributed as follows:

(1) \$6,386,460 is for energy efficiency grants to local government in article 2, section 6; and

(2) \$4,257,640 is for energy efficiency grants to local government and school district buildings consistent with the requirements in article 2, section 7.

Sec. 3. **STATE ENERGY PROGRAM APPROPRIATION.**

Subdivision 1. **Appropriation.** Of the funds available to the state of Minnesota from the federal stimulus funding for the State Energy Program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, \$54,172,000 is appropriated to the commissioner of commerce. Of this amount:

(1) \$8,750,000 is for energy efficiency projects in local government and school district buildings consistent with the requirements in article 2, section 7;

(2) \$6,922,000 is for energy efficiency projects in state government buildings consistent with the requirements of article 2, section 8;

(3) \$7,900,000 is for residential energy efficiency programs consistent with the requirements in article 2, section 2. Of this amount, \$250,000 is for participation outreach activities in article 2, section 5;

(4) \$1,600,000 is for innovative energy residential efficiency programs consistent with the requirements in article 2, sections 3 and 4. Of this amount, \$1,500,000 is for a program for a large city, and \$100,000 is for a program for a small city;

(5) \$1,000,000 is for training and workforce development consistent with article 5, section 1, subdivision 2;

(6) \$1,500,000 is for training and workforce development consistent with article 5, section 1, subdivision 1;

(7) \$5,000,000 is for renewable and geothermal rebates consistent with the requirements of article 3, sections 2 and 3. Of this amount, at least \$3,000,000 is for solar rebates in article 3, section 3;

(8) \$3,000,000 is for a grant to local units of government for solar energy projects consistent with the requirements of article 3, section 4;

(9) \$6,500,000 is for grants to install renewable energy in local government and school buildings consistent with the requirements of article 3, section 5;

(10) \$2,000,000 is for emerging renewable energy industries consistent with the requirements of article 3, section 6;

(11) \$5,000,000 is for a grant to a port authority for energy efficiency and renewable energy in commercial and industrial buildings consistent with article 4, section 1;

(12) \$4,500,000 is for commercial and industrial building energy grants for renewables and efficiency consistent with the requirements of article 4, section 2. Of this amount, \$150,000 is for a grant under article 4, section 2, paragraph (d); and

(13) \$500,000 is for the energy technology transfer center in article 2, section 12.

Subd. 2. **Reallocation process.** (a) The commissioner may reallocate funds under subdivision 1 if the United States Department of Energy does not approve a program for which funds are allocated or if the commissioner determines that:

(1) there is insufficient demand to effectively expend all funds allocated to a program;

(2) the funds as allocated are unlikely to result in achievement of the goals of the funding; or

(3) the funds as allocated are unlikely to attain results that exceed the minimum performance requirements established by the federal Department of Energy.

(b) Before reallocating funds, the commissioner shall:

(1) provide public notice of intent to reallocate funds;

(2) accept public comment on a proposed reallocation for no fewer than 15 business days; and

(3) submit a report on the proposed reallocation to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy and finance. The report must include the reason for reallocation, a summary of activities and expenditures to market and stimulate demand for the program whose funds are to be reallocated, the amount to be reallocated, the program to which funds will be reallocated, and the public comments submitted.

(c) The commissioner may reallocate funds 15 business days after submission of the report required under paragraph (b), clause (3).

ARTICLE 7

EFFECTIVE DATE

Section 1. **EFFECTIVE DATE.**

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to energy; providing direction for the use of federal stimulus money for energy programs; appropriating money; amending Minnesota Statutes 2008, section 16B.322, by adding subdivisions."

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

Senate Conferees: ELLEN ANDERSON, YVONNE PRETTNER SOLON, GARY KUBLY, STEVE DILLE and SANDY RUMMEL.

House Conferees: JEREMY KALIN, BILL HILTY, BRITA SAILER, KATHY BRYNAERT and DENNY MCNAMARA.

Kalin moved that the report of the Conference Committee on S. F. No. 657 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 657, A bill for an act relating to energy; providing direction for the use of federal stimulus money for energy programs; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216C.

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 102 yeas and 32 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Hausman	Kalin	Mariani	Obermueller
Anderson, P.	Davnie	Haws	Kath	Marquart	Olin
Anderson, S.	Dill	Hayden	Kiffmeyer	Masin	Otreмба
Anzels	Dittrich	Hilstrom	Knuth	McFarlane	Paymar
Atkins	Doepke	Hilty	Koenen	McNamara	Pelowski
Benson	Doty	Hornstein	Laine	Morgan	Persell
Bigham	Eken	Hortman	Lanning	Morrow	Peterson
Bly	Falk	Hosch	Lenczewski	Mullery	Poppe
Brown	Faust	Howes	Lesch	Murphy, E.	Reinert
Brynaert	Fritz	Huntley	Liebling	Murphy, M.	Rosenthal
Bunn	Gardner	Jackson	Lieder	Nelson	Rukavina
Carlson	Greiling	Johnson	Lillie	Newton	Ruud
Champion	Gunther	Juhnke	Loeffler	Nornes	Sailer
Clark	Hansen	Kahn	Mahoney	Norton	Scalze

Sertich	Slocum	Sterner	Thissen	Wagenius	Westrom
Simon	Smith	Swails	Tillberry	Ward	Winkler
Slawik	Solberg	Thao	Urdahl	Welti	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Demmer	Garofalo	Kelly	Peppin	Torkelson
Beard	Dettmer	Gottwalt	Kohls	Sanders	Zellers
Brod	Downey	Hackbarth	Loon	Scott	
Buesgens	Drazkowski	Hamilton	Mack	Seifert	
Davids	Eastlund	Holberg	Magnus	Severson	
Dean	Emmer	Hoppe	Murdock	Shimanski	

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

Madam Speaker:

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

S. F. No. 722.

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. 722

A bill for an act relating to public safety; requiring that information on persons civilly committed, found not guilty by reason of mental illness, or incompetent to stand trial be transmitted to the federal National Instant Criminal Background Check System; authorizing certain persons prohibited under state law from possessing a firearm to petition a court for restoration of this right; amending Minnesota Statutes 2008, section 624.713, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 253B.

May 16, 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. 722 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 722 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [253B.24] TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

When a court:

(1) commits a person under this chapter as being mentally ill, developmentally disabled, mentally ill and dangerous, or chemically dependent;

(2) determines in a criminal case that a person is incompetent to stand trial or not guilty by reason of mental illness; or

(3) restores a person's ability to possess a firearm under section 609.165, subdivision 1d, or 624.713, subdivision 4.

the court shall ensure that this information is transmitted as soon as practicable to the National Instant Criminal Background Check System.

Sec. 2. Minnesota Statutes 2008, section 624.713, subdivision 1, is amended to read:

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

(1) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(2) except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(3) a person who is or has ever been ~~confined~~ committed in Minnesota or elsewhere ~~as a by a judicial determination that the person who~~ is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, ~~unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability~~ person's ability to possess a firearm has been restored under subdivision 4;

(4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, ~~or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other such violation of chapter 152 or a similar law of another state; or a person who is or has ever been committed by a judicial determination for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person's ability to possess a firearm has been restored under subdivision 4;~~

(5) a person who has been ~~confined or~~ committed to a treatment facility in Minnesota or elsewhere ~~as by a judicial determination that the person is~~ chemically dependent as defined in section 253B.02, unless the person has completed treatment or the person's ability to possess a firearm has been restored under subdivision 4. Property rights may not be abated but access may be restricted by the courts;

(6) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(7) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(8) except as otherwise provided in clause (9), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(9) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court;

(10) a person who:

(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(iii) is an unlawful user of any controlled substance as defined in chapter 152;

(iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02;

(v) is an alien who is illegally or unlawfully in the United States;

(vi) has been discharged from the armed forces of the United States under dishonorable conditions; or

(vii) has renounced the person's citizenship having been a citizen of the United States; or

(11) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.

A person who issues a certificate pursuant to this ~~subdivision~~ section in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

The lifetime prohibition on possessing, receiving, shipping, or transporting firearms for persons convicted or adjudicated delinquent of a crime of violence in clause (2), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

For purposes of this section, "judicial determination" means a court proceeding pursuant to sections 253B.07 through 253B.09 or a comparable law from another state.

Sec. 3. Minnesota Statutes 2008, section 624.713, is amended by adding a subdivision to read:

Subd. 4. **Restoration of firearms eligibility to civilly committed person; petition authorized.** (a) A person who is prohibited from possessing a firearm under subdivision 1, due to commitment resulting from a judicial determination that the person is mentally ill, developmentally disabled, mentally ill and dangerous, or chemically dependent, may petition a court to restore the person's ability to possess a firearm.

(b) The court may grant the relief sought in paragraph (a) in accordance with the principles of due process if the circumstances regarding the person's disqualifying condition and the person's record and reputation are determined to be such that:

(1) the person is not likely to act in a manner that is dangerous to public safety; and

(2) the granting of relief would not be contrary to the public interest.

(c) When determining whether a person has met the requirement of paragraph (b), clause (1), the court may consider evidence from a licensed medical doctor or clinical psychologist that the person is no longer suffering from the disease or condition that caused the disability or that the disease or condition has been successfully treated for a period of three consecutive years.

(d) Review on appeal shall be de novo.

Sec. 4. Minnesota Statutes 2008, section 624.7131, subdivision 2, is amended to read:

Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories, records and warrant information relating to the applicant through the Minnesota crime information system ~~and~~, the national criminal record repository ~~and~~, and the National Instant Criminal Background Check System. The chief of police or sheriff shall also make a reasonable effort to check other available state and local record-keeping systems. The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.

Sec. 5. Minnesota Statutes 2008, section 624.7132, subdivision 2, is amended to read:

Subd. 2. **Investigation.** Upon receipt of a transfer report, the chief of police or sheriff shall check criminal histories, records and warrant information relating to the proposed transferee through the Minnesota crime information system ~~and~~, the national criminal record repository, and the National Instant Criminal Background Check System. ~~and~~ The chief of police or sheriff shall also make a reasonable effort to check other available state and local record-keeping systems. The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.

Sec. 6. Minnesota Statutes 2008, section 624.714, subdivision 4, is amended to read:

Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and, ~~to the extent necessary,~~ the National Instant Criminal Background Check System. The sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record-keeping systems. The sheriff must obtain commitment information from the commissioner of human services as provided in section 245.041 or, if the information is reasonably available, as provided by a similar statute from another state.

(b) When an application for a permit is filed under this section, the sheriff must notify the chief of police, if any, of the municipality where the applicant resides. The police chief may provide the sheriff with any information relevant to the issuance of the permit.

(c) The sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and, ~~to the extent necessary,~~ the National Instant Criminal Background Check System at least yearly to ensure continuing eligibility. The sheriff may also conduct additional background checks by means of electronic data transfer on a permit holder at any time during the period that a permit is in effect.

Sec. 7. **EFFECTIVE DATE.**

Section 1 is effective July 1, 2010."

Delete the title and insert:

"A bill for an act relating to public safety; requiring that information on persons civilly committed, found not guilty by reason of mental illness, or incompetent to stand trial be transmitted to the federal National Instant Criminal Background Check System; authorizing certain persons prohibited under state law from possessing a firearm to petition a court for restoration of this right; amending Minnesota Statutes 2008, sections 624.713, subdivision 1, by adding a subdivision; 624.7131, subdivision 2; 624.7132, subdivision 2; 624.714, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 253B."

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

Senate Conferees: KENNETH KELASH, MEE MOUA and BILL INGEBRIGTSEN.

House Conferees: JOHN LESCH, KIM NORTON and TONY CORNISH.

Lesch moved that the report of the Conference Committee on S. F. No. 722 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 722, A bill for an act relating to public safety; requiring that information on persons civilly committed, found not guilty by reason of mental illness, or incompetent to stand trial be transmitted to the federal National Instant Criminal Background Check System; authorizing certain persons prohibited under state law from possessing a firearm to petition a court for restoration of this right; amending Minnesota Statutes 2008, section 624.713, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 253B.

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 134 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
Anzenc	Doty	Hoppe	Lillie	Otremba	Solberg
Atkins	Downey	Hornstein	Loeffler	Paymar	Sterner
Beard	Drazkowski	Hortman	Loon	Pelowski	Swails
Benson	Eastlund	Hosch	Mack	Peppin	Thao
Bigham	Eken	Howes	Magnus	Persell	Thissen
Bly	Emmer	Huntley	Mahoney	Peterson	Tillberry
Brod	Falk	Jackson	Mariani	Poppe	Torkelson
Brown	Faust	Johnson	Marquart	Reinert	Urdahl
Brynaert	Fritz	Juhnke	Masin	Rosenthal	Wagenius
Buesgens	Gardner	Kahn	McFarlane	Rukavina	Ward
Bunn	Garofalo	Kalin	McNamara	Ruud	Walti
Carlson	Gottwalt	Kath	Morgan	Sailer	Westrom
Champion	Greiling	Kelly	Morrow	Sanders	Winkler
Clark	Gunther	Kiffmeyer	Mullery	Scalze	Zellers
Cornish	Hackbarth	Knuth	Murdock	Scott	Spk. Kelliher
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 repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

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

S. F. No. 708.

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. 708

A bill for an act relating to mortgages; modifying provisions relating to foreclosure consultants; amending Minnesota Statutes 2008, section 325N.01.

May 15, 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. 708 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. 708 be further amended as follows:

Page 4, line 14, delete everything after "effective" and insert "30 days after the date of final enactment."

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

Senate Conferees: LISA FOBBE, BILL INGEBRIGTSEN and LINDA SCHEID.

House Conferees: JOE MULLERY, SHELDON JOHNSON and KURT ZELLERS.

Mullery moved that the report of the Conference Committee on S. F. No. 708 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 708, A bill for an act relating to mortgages; modifying provisions relating to foreclosure consultants; amending Minnesota Statutes 2008, section 325N.01.

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 134 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
Anzalc	Doty	Hoppe	Lillie	Otremba	Solberg
Atkins	Downey	Hornstein	Loeffler	Paymar	Sterner
Beard	Drazkowski	Hortman	Loon	Pelowski	Swails
Benson	Eastlund	Hosch	Mack	Peppin	Thao
Bigham	Eken	Howes	Magnus	Persell	Thissen
Bly	Emmer	Huntley	Mahoney	Peterson	Tillberry
Brod	Falk	Jackson	Mariani	Poppe	Torkelson
Brown	Faust	Johnson	Marquart	Reinert	Urdahl
Brynaert	Fritz	Juhnke	Masin	Rosenthal	Wagenius
Buesgens	Gardner	Kahn	McFarlane	Rukavina	Ward
Bunn	Garofalo	Kalin	McNamara	Ruud	Welti
Carlson	Gottwalt	Kath	Morgan	Sailer	Westrom
Champion	Greiling	Kelly	Morrow	Sanders	Winkler
Clark	Gunther	Kiffmeyer	Mullery	Scalze	Zellers
Cornish	Hackbarth	Knuth	Murdock	Scott	Spk. Kelliher
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 repassed, as amended by Conference and its title agreed to.

Madam Speaker:

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

S. F. No. 1012.

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. 1012

A bill for an act relating to state government; appropriating money for environment and natural resources.

May 16, 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. 1012 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1012 be further amended as follows:

Page 17, delete subdivision 11 and insert:

"Subd. 11. **Project Requirements**

(a) As a condition of accepting an appropriation in this section, any agency or entity receiving an appropriation must, for any project funded in whole or in part with funds from the appropriation:

(1) comply with Minnesota Statutes, chapter 116P;

(2) plant vegetation only of native ecotypes to Minnesota and preferably of the local ecotype using a high diversity of species originating as close to the restoration site as possible and when restoring prairies, protect existing prairies from genetic contamination.

Use of seeds and plant materials beyond these requirements must be expressly approved in the work program;

(3) provide that all conservation easements:

(i) are perpetual;

(ii) specify the parties to an easement in the easement;

(iii) specify all of the provisions of an agreement that are perpetual;

(iv) are sent to the office of the Legislative-Citizen Commission on Minnesota Resources in an electronic format; and

(v) include a long-term stewardship plan and funding for monitoring and enforcing the easement agreement;

(4) for all restorations, prepare an ecological restoration and management plan that, to the degree practicable, is consistent with the highest quality conservation and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success of the restoration projects. The plan shall include the proposed time table for implementing the restoration, including site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and take advantage of the best available science and include innovative techniques to achieve the best restoration;

(5) for new lands acquired, prepare a restoration and management plan in compliance with clause (4), including sufficient funding for implementation;

(6) give priority in any acquisition of land or interest in land to high quality natural resources or conservation lands that provide natural buffers to water resources;

(7) to ensure public accountability for the use of public funds, provide to the Legislative-Citizen Commission on Minnesota Resources documentation of the selection process used to identify parcels acquired and provide documentation of all related transaction costs, including but not limited to appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient shall also report to the Legislative-Citizen Commission on Minnesota Resources any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to Minnesota Statutes, chapter 13; and

(8) give consideration to contracting with the Minnesota Conservation Corps for contract restoration and enhancement services.

(b) The Legislative-Citizen Commission on Minnesota Resources shall review the requirement in paragraph (a), clause (7), and provide a recommendation whether to continue or modify the requirement in future years. The commission may waive the application of paragraph (a), clause (7), for specific projects."

Page 22, after line 28, insert:

"Sec. 3. Minnesota Statutes 2008, section 116P.05, subdivision 2, is amended to read:

Subd. 2. **Duties.** (a) The commission shall recommend an annual or biennial legislative bill for appropriations from the environment and natural resources trust fund and shall adopt a strategic plan as provided in section 116P.08. Approval of the recommended legislative bill requires an affirmative vote of at least 12 members of the commission.

(b) The commission shall recommend expenditures to the legislature from the state land and water conservation account in the natural resources fund.

(c) It is a condition of acceptance of the appropriations made from the Minnesota environment and natural resources trust fund, and oil overcharge money under section 4.071, subdivision 2, that the agency or entity receiving the appropriation must submit a work program and semiannual progress reports in the form determined by the Legislative-Citizen Commission on Minnesota Resources, and comply with applicable reporting requirements under section 116P.16. None of the money provided may be spent unless the commission has approved the pertinent work program.

(d) The peer review panel created under section 116P.08 must also review, comment, and report to the commission on research proposals applying for an appropriation from the oil overcharge money under section 4.071, subdivision 2.

(e) The commission may adopt operating procedures to fulfill its duties under this chapter.

(f) As part of the operating procedures, the commission shall:

(1) ensure that members' expectations are to participate in all meetings related to funding decision recommendations;

(2) recommend adequate funding for increased citizen outreach and communications for trust fund expenditure planning;

(3) allow administrative expenses as part of individual project expenditures based on need;

(4) provide for project outcome evaluation;

(5) keep the grant application, administration, and review process as simple as possible; and

(6) define and emphasize the leveraging of additional sources of money that project proposers should consider when making trust fund proposals.

Sec. 4. Minnesota Statutes 2008, section 116P.08, subdivision 4, is amended to read:

Subd. 4. **Legislative recommendations.** (a) Funding may be provided only for those projects that meet the categories established in subdivision 1.

(b) The commission must recommend an annual or biennial legislative bill to make appropriations from the trust fund for the purposes provided in subdivision 1. The recommendations must be submitted to the governor for inclusion in the biennial budget and supplemental budget submitted to the legislature.

(c) The commission may recommend regional block grants for a portion of trust fund expenditures to partner with existing regional organizations that have strong citizen involvement, to address unique local needs and capacity, and to leverage all available funding sources for projects.

(d) The commission may recommend the establishment of an ~~annual~~ emerging issues account in its ~~annual~~ legislative bill for funding emerging issues, which come up unexpectedly, but which still adhere to the commission's strategic plan, to be approved by the governor after initiation and recommendation by the commission.

(e) Money in the trust fund may not be spent except under an appropriation by law.

Sec. 5. Minnesota Statutes 2008, section 116P.10, is amended to read:

116P.10 ROYALTIES, COPYRIGHTS, PATENTS, AND SALE OF PRODUCTS AND ASSETS.

(a) This section applies to projects supported by the trust fund and the oil overcharge money referred to in section 4.071, subdivision 2, each of which is referred to in this section as a "fund."

(b) The fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the fund equal to the percentage of the project's total funding provided by the fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the fund. Receipts from Minnesota future resources fund projects must be credited to the trust fund. The commission may include in its ~~annual~~ legislative bill a recommendation to relinquish the ownership or rights to a royalty, copyright, or patent resulting from a project supported by the fund to the project's proposer when the amount of the original grant or loan, plus interest, has been repaid to the fund.

(c) If a project supported by the fund results in net income from the sale of products or assets developed or acquired by an appropriation from the fund, the appropriation must be repaid to the fund in an amount equal to the percentage of the project's total funding provided by the fund. The commission may include in its ~~annual~~ legislative bill a recommendation to relinquish the income if a plan is approved for reinvestment of the income in the project or when the amount of the original grant or loan, plus interest, has been repaid to the fund."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 3, delete the period and insert "; modifying duties of Legislative-Citizen Commission on Minnesota Resources;"

Correct the title numbers

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

Senate Conferees: ELLEN ANDERSON, DENNIS FREDERICKSON and PAT PARISEAU.

House Conferees: JEAN WAGENIUS, KATE KNUTH, KORY KATH, JOHN PERSELL and JENIFER LOON.

Wagenius moved that the report of the Conference Committee on S. F. No. 1012 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1012, A bill for an act relating to state government; appropriating money for environment and natural resources.

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 108 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Doepke	Hortman	Lillie	Norton	Solberg
Anderson, S.	Doty	Hosch	Loeffler	Obermueller	Sterner
Anzalc	Downey	Howes	Loon	Otremba	Swails
Atkins	Eken	Huntley	Mack	Paymar	Thao
Benson	Falk	Jackson	Mahoney	Pelowski	Thissen
Bigham	Faust	Johnson	Mariani	Persell	Tillberry
Bly	Fritz	Juhnke	Marquart	Peterson	Urdahl
Brod	Gardner	Kahn	Masin	Poppe	Wagenius
Brown	Greiling	Kalin	McFarlane	Reinert	Ward
Brynaert	Gunther	Kath	McNamara	Rosenthal	Welti
Bunn	Hansen	Kelly	Morgan	Ruud	Westrom
Carlson	Hausman	Knuth	Morrow	Sailer	Winkler
Champion	Haws	Koenen	Mullery	Scalze	Spk. Kelliher
Clark	Hayden	Laine	Murdock	Scott	
Cornish	Hilstrom	Lanning	Murphy, E.	Sertich	
Davids	Hilty	Lenczewski	Murphy, M.	Shimanski	
Davnie	Holberg	Lesch	Nelson	Simon	
Demmer	Hoppe	Liebling	Newton	Slawik	
Dill	Hornstein	Lieder	Nornes	Slocum	

Those who voted in the negative were:

Anderson, B.	Dettmer	Garofalo	Kohls	Sanders	Zellers
Anderson, P.	Dittrich	Gottwalt	Magnus	Seifert	
Beard	Drazkowski	Hackbarth	Olin	Severson	
Buesgens	Eastlund	Hamilton	Peppin	Smith	
Dean	Emmer	Kiffmeyer	Rukavina	Torkelson	

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

The following Conference Committee reports were received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 417

A bill for an act relating to commerce; prohibiting certain claims processing practices by third-party administrators of health coverage plans; regulating health claims clearinghouses; providing recovery of damages and attorney fees for breach of an insurance policy; permitting a deceased professional's surviving spouse to retain ownership of a professional firm that was solely owned by the decedent for up to one year after the death; amending Minnesota Statutes 2008, sections 60A.23, subdivision 8; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 60A; 62Q.

May 16, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 417 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 417 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[60A.0811] BREACH OF INSURANCE POLICY; RECOVERY OF INTEREST.**

Subdivision 1. **Definitions.** For purposes of this section:

(1) "insurance policy" means a commercial or professional insurance policy or contract other than:

(i) a workers' compensation insurance policy or contract;

(ii) a health insurance policy or contract issued, executed, renewed, maintained, or delivered in this state by a health carrier as defined in section 62A.011, subdivision 2;

(iii) a life insurance or disability insurance policy or contract; or

(iv) a policy or contract issued by a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A;

(2) "insured" means any named insured, additional insured, or insured under an insurance policy; and

(3) "insurer" means an insurer:

(i) incorporated or organized in this state; or

(ii) admitted, authorized, or licensed to do business or doing business in this state but not incorporated or organized in this state. Insurer does not include the joint underwriting association operating under chapter 62F or 62I; or a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A.

Subd. 2. **Interest.** (a) An insured who prevails in any claim against an insurer based on the insurer's breach or repudiation of, or failure to fulfill, a duty to provide services or make payments is entitled to recover 10 percent per annum interest on monetary amounts due under the insurance policy, calculated from the date the request for payment of those benefits was made to the insurer.

(b) Punitive damages or damages for nonmonetary losses are not recoverable under this section.

Subd. 3. **Application.** This section applies to a court action or arbitration proceeding, including an action seeking declaratory judgment.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to a cause of action existing on, or arising on or after that date.

Sec. 2. 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. 3. 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. 4. 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. 5. 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.

Sec. 6. Minnesota Statutes 2008, section 471.982, subdivision 3, is amended to read:

Subd. 3. **Exemptions.** Self-insurance pools established and open for enrollment on a statewide basis by the Minnesota League of Cities Insurance Trust, the Minnesota School Boards Association Insurance Trust, the Minnesota Association of Townships Insurance and Bond Trust, or the Minnesota Association of Counties Insurance Trust and the political subdivisions that belong to them are exempt from the requirements of this section and ~~section~~ sections 65B.48, subdivision 3, and 60A.0811. In addition, the Minnesota Association of Townships Insurance and Bond Trust and the townships that belong to it are exempt from the requirement to hold the certificate of surety authorization issued by the commissioner of commerce as provided in section 574.15."

Delete the title and insert:

"A bill for an act relating to commerce; providing recovery of damages and attorney fees for breach of an insurance policy; permitting a deceased professional's surviving spouse to retain ownership of a professional firm that was solely owned by the decedent for up to one year after the death; amending Minnesota Statutes 2008, sections 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 60A."

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

House Conferees: JOE ATKINS, SHELDON JOHNSON and STEVE SMITH.

Senate Conferees: THOMAS BAKK, RAY VANDEVEER and LINDA SCHEID.

Atkins moved that the report of the Conference Committee on H. F. No. 417 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 417, A bill for an act relating to commerce; prohibiting certain claims processing practices by third-party administrators of health coverage plans; regulating health claims clearinghouses; providing recovery of damages and attorney fees for breach of an insurance policy; permitting a deceased professional's surviving spouse to retain ownership of a professional firm that was solely owned by the decedent for up to one year after the death; amending Minnesota Statutes 2008, sections 60A.23, subdivision 8; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 60A; 62Q.

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 103 yeas and 31 nays as follows:

Those who voted in the affirmative were:

Abeler	Anzelc	Benson	Brown	Carlson	Davids
Anderson, P.	Atkins	Bigham	Brynaert	Champion	Davnie
Anderson, S.	Beard	Bly	Bunn	Clark	Dill

Doepke	Hayden	Knuth	McNamara	Poppe	Swails
Doty	Hilstrom	Koenen	Morgan	Reinert	Thao
Downey	Hilty	Laine	Morrow	Rosenthal	Thissen
Eastlund	Hornstein	Lenczewski	Mullery	Rukavina	Tillberry
Eken	Hortman	Lesch	Murphy, E.	Ruud	Urdahl
Emmer	Hosch	Liebling	Murphy, M.	Sailer	Wagenius
Falk	Howes	Lieder	Nelson	Scalze	Ward
Faust	Huntley	Lillie	Newton	Scott	Winkler
Fritz	Jackson	Loeffler	Norton	Sertich	Zellers
Gardner	Johnson	Mack	Obermueller	Severson	Spk. Kelliher
Greiling	Juhnke	Mahoney	Otremba	Simon	
Gunther	Kahn	Mariani	Paymar	Slawik	
Hansen	Kalin	Marquart	Pelowski	Slocum	
Hausman	Kelly	Masin	Persell	Smith	
Haws	Kiffmeyer	McFarlane	Peterson	Solberg	

Those who voted in the negative were:

Anderson, B.	Dettmer	Hamilton	Loon	Sanders	Westrom
Brod	Dittrich	Holberg	Magnus	Seifert	
Buesgens	Drazkowski	Hoppe	Murdock	Shimanski	
Cornish	Garofalo	Kath	Nornes	Sterner	
Dean	Gottwalt	Kohls	Olin	Torkelson	
Demmer	Hackbarth	Lanning	Peppin	Welti	

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

CONFERENCE COMMITTEE REPORT ON H. F. NO. 519

A bill for an act relating to local government; regulating nonconforming lots in shoreland areas; amending Minnesota Statutes 2008, sections 394.36, subdivision 4, by adding a subdivision; 462.357, subdivision 1e.

May 16, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 519 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 519 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 394.36, subdivision 4, is amended to read:

Subd. 4. **Nonconformities; certain classes of property.** This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing

at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property- or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

Sec. 2. Minnesota Statutes 2008, section 394.36, is amended by adding a subdivision to read:

Subd. 5. Existing nonconforming lots in shoreland areas. (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Sec. 3. Minnesota Statutes 2008, section 462.357, subdivision 1e, is amended to read:

Subd. 1e. **Nonconformities.** (a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

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

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

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

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

(d) Paragraphs (d) to (j) apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to paragraphs (d) to (j).

(e) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(f) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(g) A lot subject to paragraph (f) not meeting the requirements of paragraph (f) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(h) Notwithstanding paragraph (f), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(i) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(j) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to local government; regulating nonconforming lots in shoreland areas; amending Minnesota Statutes 2008, sections 394.36, subdivision 4, by adding a subdivision; 462.357, subdivision 1e."

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

House Conferees: MICHAEL V. NELSON, JOE MULLERY and LARRY HOWES.

Senate Conferees: ANN H. REST, DICK DAY and DON BETZOLD.

Nelson moved that the report of the Conference Committee on H. F. No. 519 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 519, A bill for an act relating to local government; regulating nonconforming lots in shoreland areas; amending Minnesota Statutes 2008, sections 394.36, subdivision 4, by adding a subdivision; 462.357, subdivision 1e.

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 134 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
Anzelc	Doty	Hoppe	Lillie	Otremba	Solberg
Atkins	Downey	Hornstein	Loeffler	Paymar	Sterner
Beard	Drazkowski	Hortman	Loon	Pelowski	Swails
Benson	Eastlund	Hosch	Mack	Peppin	Thao
Bigham	Eken	Howes	Magnus	Persell	Thissen
Bly	Emmer	Huntley	Mahoney	Peterson	Tillberry
Brod	Falk	Jackson	Mariani	Poppe	Torkelson
Brown	Faust	Johnson	Marquart	Reinert	Urdahl
Brynaert	Fritz	Juhnke	Masin	Rosenthal	Wagenius
Buesgens	Gardner	Kahn	McFarlane	Rukavina	Ward
Bunn	Garofalo	Kalin	McNamara	Ruud	Welti
Carlson	Gottwalt	Kath	Morgan	Sailer	Westrom
Champion	Greiling	Kelly	Morrow	Sanders	Winkler
Clark	Gunther	Kiffmeyer	Mullery	Scalze	Zellers
Cornish	Hackbarth	Knuth	Murdock	Scott	Spk. Kelliher
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 repassed, as amended by Conference, and its title agreed to.

CONFERENCE COMMITTEE REPORT ON H. F. NO. 804

A bill for an act relating to probate; modifying provisions governing guardians and conservators; amending Minnesota Statutes 2008, sections 260C.331, subdivision 1; 524.5-102, subdivision 7, by adding a subdivision; 524.5-304; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-413; 524.5-414; 524.5-420; proposing coding for new law in Minnesota Statutes, chapter 524.

May 16, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 804 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 804 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 260C.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the responsible social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the responsible social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over the age of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (8), to transition from foster care.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the responsible social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

(f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the child is not required to use income and resources attributable to the child to reimburse the county for costs of care and is not required to contribute to the cost of care of the child during any period of time when the child is returned to the home of that parent, custodian, or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph (a).

Sec. 2. Minnesota Statutes 2008, section 524.5-102, subdivision 7, is amended to read:

Subd. 7. **Interested person.** "Interested person" includes:

- (i) the ward, protected person, or respondent;
- (ii) a nominated guardian or conservator, or the duly appointed guardian or conservator;
- (iii) legal representative;
- (iv) the spouse, parent, adult children and siblings, or if none of such persons is living or can be located, the next of kin of the ward, protected person, or respondent;
- (v) an adult person who has lived with a ward, protected person, or respondent for a period of more than six months;
- (vi) an attorney for the ward or protected person;
- (vii) a governmental agency paying or to which an application has been made for benefits for the respondent, ward, or protected person, including the county social services agency for the person's county of residence and the county where the proceeding is venued;
- (viii) a representative of a state ombudsman's office or a federal protection and advocacy program that has notified the court that it has a matter regarding the ward, protected person, or respondent;
- ~~(viii)~~ (ix) a health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state; and
- ~~(ix)~~ (x) any other person designated by the court.

Sec. 3. Minnesota Statutes 2008, section 524.5-102, is amended by adding a subdivision to read:

Subd. 13a. **Professional guardian or professional conservator.** "Professional guardian" or "professional conservator" means a person acting as guardian or conservator for three or more individuals not related by blood, adoption, or marriage.

Sec. 4. **[524.5-119] CENTRAL REGISTRATION OF GUARDIANS AND CONSERVATORS; APPROPRIATION.**

(a) By July 1, 2013, the Supreme Court shall establish a statewide registration system under which guardians and conservators appointed under sections 524.5-101 to 524.5-502 must register with the state court administrator. Registration information must include the name of the guardian or conservator, whether the person is a professional guardian or conservator, date and county of appointment, and other information required by the Supreme Court. Registration data that the Supreme Court determines are accessible to the public must be accessible online or through other means implemented by the Supreme Court.

(b) The state court administrator shall establish registration fees or identify another source of funds to support the costs of developing and administering the registration system. The state court administrator shall determine whether guardians and conservators should pay a registration fee and the amount of the fee, and shall take into consideration whether the guardian or conservator is a professional guardian or conservator, whether the guardian or conservator represents clients in forma pauperis, and the number of wards or protected persons the guardian or conservator represents. The state court administrator shall report to the legislature on the fees or other source of funds to support the costs of developing and administering the registration system by January 1, 2012. The state court administrator shall begin collecting fees under this paragraph on July 1, 2012. Fees collected by the state court administrator under this section are appropriated to the Supreme Court.

Sec. 5. **[524.5-120] BILL OF RIGHTS FOR WARDS AND PROTECTED PERSONS.**

The ward or protected person retains all rights not restricted by court order and these rights must be enforced by the court. These rights include the right to:

- (1) treatment with dignity and respect;
- (2) due consideration of current and previously stated personal desires, medical treatment preferences, religious beliefs, and other preferences and opinions in decisions made by the guardian or conservator;
- (3) receive timely and appropriate health care and medical treatment that does not violate known conscientious, religious, or moral beliefs of the ward or protected person;
- (4) exercise control of all aspects of life not delegated specifically by court order to the guardian or conservator;
- (5) guardianship or conservatorship services individually suited to the ward or protected person's conditions and needs;
- (6) petition the court to prevent or initiate a change in abode;
- (7) care, comfort, social and recreational needs, training, education, habilitation, and rehabilitation care and services, within available resources;
- (8) be consulted concerning, and to decide to the extent possible, the reasonable care and disposition of the ward or protected person's clothing, furniture, vehicles, and other personal effects, to object to the disposition of personal property and effects, and to petition the court for a review of the guardian's or conservator's proposed disposition;
- (9) personal privacy;
- (10) communication and visitation with persons of the ward or protected person's choice, provided that if the guardian has found that certain communication or visitation may result in harm to the ward's health, safety, or well-being, that communication or visitation may be restricted but only to the extent necessary to prevent the harm;
- (11) marry and procreate, unless court approval is required, and to consent or object to sterilization as provided in section 524.5-313, paragraph (c), clause (4), item (iv);
- (12) petition the court for termination or modification of the guardianship or conservatorship or for other appropriate relief;
- (13) be represented by an attorney in any proceeding or for the purpose of petitioning the court; and
- (14) vote, unless restricted by the court.

Sec. 6. Minnesota Statutes 2008, section 524.5-304, is amended to read:

524.5-304 JUDICIAL APPOINTMENT OF GUARDIAN: PRELIMINARIES TO HEARING.

(a) Upon receipt of a petition to establish a guardianship, the court shall set a date and time for hearing the petition and may appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition.

(b) A proposed ward has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the proposed ward for the initial proceeding held pursuant to section 524.5-307 if neither the proposed ward nor others provide counsel unless in a meeting with a visitor the proposed ward makes an informed decision in writing to specifically waives waive the right to counsel. Before appointment, and at any time during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed ward or ward, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed guardian or guardian and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed ward or ward will be materially limited by counsel's concurrent responsibilities to the proposed guardian or guardian. If there is a risk of a conflict of interest, the counsel must not be appointed or new counsel must be appointed, unless:

(1) the court determines that the proposed ward or ward is able to give informed consent to the representation and, if the proposed ward or ward consents, the consent is confirmed in writing pursuant to Rule 1.7; or

(2) the court determines that there is not a risk of a conflict of interest under Rule 1.7 requiring the appointment of different counsel.

Counsel must be appointed immediately after any petition under this article is served under section 524.5-308. Counsel has the full right of subpoena. In all proceedings under this article, counsel shall:

(1) consult with the proposed ward before any hearing;

(2) be given adequate time to prepare for all hearings; and

(3) continue to represent the person throughout any proceedings under section 524.5-307, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing guardian or the order dismissing a petition, or upon such other time or event as the court may direct.

The court need not appoint counsel to represent the proposed ward on a voluntary petition, and the court may remove a court-appointed attorney at any time if the court finds that the proposed ward has made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

(c) The visitor shall personally serve the notice and petition upon the respondent and shall offer to read the notice and petition to the respondent, and if so requested the visitor shall read the notice and petition to such person. The visitor shall also interview the respondent in person, and to the extent that the respondent is able to understand:

(1) explain to the respondent the substance of the petition; the nature, purpose, and effect of the proceeding; the respondent's rights at the hearing; and the general powers and duties of a guardian;

(2) determine the respondent's views about the proposed guardian, the proposed guardian's powers and duties, and the scope and duration of the proposed guardianship;

(3) inform the respondent of the right to employ and consult with a lawyer at the respondent's own expense and the right to request a court-appointed lawyer; and

(4) inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys fees, will be paid from the respondent's estate.

(d) In addition to the duties in paragraph (c), the visitor shall make any other investigation the court directs.

(e) The visitor shall promptly file a report in writing with the court, which must include:

(1) recommendations regarding the appropriateness of guardianship, including whether less restrictive means of intervention are available, the type of guardianship, and, if a limited guardianship, the powers to be granted to the limited guardian;

(2) a statement as to whether the respondent approves or disapproves of the proposed guardian, and the powers and duties proposed or the scope of the guardianship; and

(3) any other matters the court directs.

(f) The county social service agency may create a screening committee to review a petition involving an indigent person. The screening committee must consist of individuals selected by the agency with knowledge of alternatives that are less restrictive than guardianship. If the agency has created a screening committee, the court shall make its decision after the screening committee has reviewed the petition. For an indigent person, the court may appoint a guardian under contract with the county to provide these services.

(g) Before the initial appointment, and annually within 30 days after the anniversary date of the appointment, the proposed guardian or guardian shall file an informational statement with the court. The statement must be a sworn affidavit containing the following information:

(1) the person's educational background and relevant work and other experience;

(2) an address and telephone number where the guardian can be contacted;

(3) whether the person has ever been removed for cause from serving as a guardian or conservator and if so, the case number and court location;

(4) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study conducted pursuant to section 524.5-118; and

(5) if applicable, the amount of reimbursement for services rendered to the ward that the person has received during the previous year.

Sec. 7. Minnesota Statutes 2008, section 524.5-309, is amended to read:

524.5-309 WHO MAY BE GUARDIAN: PRIORITIES.

(a) Subject to paragraph (c), the court, in appointing a guardian, shall consider persons otherwise qualified in the following order of priority:

(1) a guardian, other than a temporary or emergency guardian, currently acting for the respondent in this state or elsewhere;

- (2) an agent appointed by the respondent under a health care directive pursuant to chapter 145C;
- (3) the spouse of the respondent or a person nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased spouse;
- (4) an adult child of the respondent;
- (5) a parent of the respondent, or an individual nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased parent; ~~and~~
- (6) an adult with whom the respondent has resided for more than six months before the filing of the petition;
- (7) an adult who is related to the respondent by blood, adoption, or marriage; and
- (8) any other adult or a professional guardian.

(b) The court, acting in the best interest of the respondent, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(c) Any individual or agency which provides residence, custodial care, medical care, employment training or other care or services for which they receive a fee may not be appointed as guardian unless related to the respondent by blood, marriage, or adoption.

Sec. 8. Minnesota Statutes 2008, section 524.5-310, is amended to read:

524.5-310 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a limited or unlimited guardian for a respondent only if it finds by clear and convincing evidence that:

- (1) the respondent is an incapacitated person; and
- (2) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

(b) Alternatively, the court, with appropriate findings, may treat the petition as one for a protective order under section 524.5-401, enter any other appropriate order, or dismiss the proceeding.

(c) The court shall grant to a guardian only those powers necessitated by the ward's limitations and demonstrated needs and, whenever feasible, make appointive and other orders that will encourage the development of the ward's maximum self-reliance and independence. Any power not specifically granted to the guardian, following a written finding by the court of a demonstrated need for that power, is retained by the ward.

(d) Within 14 days after an appointment, a guardian shall send or deliver to the ward, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the ward of the right to appeal the guardianship appointment in the time and manner provided by the Rules of Appellate Procedure.

(e) Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the ward and to interested persons of record with the court a notice of the right to request termination or modification of the guardianship or to request an order that is in the best interests of the ward or for other appropriate relief, and notice of the status of the ward's right to vote.

Sec. 9. Minnesota Statutes 2008, section 524.5-315, is amended to read:

524.5-315 RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS.

(a) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for expenditures made on behalf of the ward, in a manner consistent with section 524.5-502.

(b) A guardian is not liable to a third person for acts of the ward solely by reason of the relationship. A guardian who exercises reasonable care in choosing a third person providing medical or other care, treatment, or service for the ward is not liable for injury to the ward resulting from the wrongful conduct of the third person.

~~(c) A guardian, without authorization of the court, may revoke the appointment of an agent of a health care directive of which the ward is the principal, but the guardian may not, absent a court order, revoke the health care directive itself. If a health care directive is in effect, absent an order of the court to the contrary, a health care decision of the guardian takes precedence over that of an agent. A guardian may not revoke the health care directive of a ward or protected person absent a court order. A guardian may revoke the appointment of an agent of a health care directive for which the ward is the principal only under the following circumstances:~~

(1) the agent was appointed in the previous 60 days;

(2) multiple agents have been appointed; or

(3) when a court has determined that the ward lacks capacity to appoint an agent of a health care directive and the court has expressly granted the guardian the power to give necessary consent to enable the ward to receive medical care, treatment, or service.

In all other circumstances, the guardian may not revoke the appointment of an agent of a health care directive for which the ward is principal absent a court order. Unless the appointment of a health care directive is revoked in accordance with this section, a health care decision of the agent takes precedence over that of the guardian.

(d) A guardian may not initiate the commitment of a ward to an institution except in accordance with section 524.5-313.

Sec. 10. Minnesota Statutes 2008, section 524.5-316, is amended to read:

524.5-316 REPORTS; MONITORING OF GUARDIANSHIP; COURT ORDERS.

(a) A guardian shall report to the court in writing on the condition of the ward at least annually and whenever ordered by the court. A copy of the report must be provided to the ward and to interested persons of record with the court. A report must state or contain:

(1) the current mental, physical, and social condition of the ward;

(2) the living arrangements for all addresses of the ward during the reporting period;

(3) any restrictions placed on the ward's right to communication and visitation with persons of the ward's choice and the factual bases for those restrictions;

~~(3)~~ (4) the medical, educational, vocational, and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care; and

(4) (5) a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.

(b) A ward or interested person of record with the court may submit to the court a written statement disputing statements or conclusions regarding the condition of the ward that are contained in the report and may petition the court for an order that is in the best interests of the ward or for other appropriate relief.

(c) The court may appoint a visitor to review a report, interview the ward or guardian, and make any other investigation the court directs.

(e) (d) The court shall establish a system for monitoring guardianships, including the filing and review of annual reports. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause.

Sec. 11. Minnesota Statutes 2008, section 524.5-317, is amended to read:

524.5-317 TERMINATION OR MODIFICATION OF GUARDIANSHIP; COURT ORDERS.

(a) A guardianship terminates upon the death of the ward or upon order of the court.

(b) On petition of any person interested in the ward's welfare the court may terminate a guardianship if the ward no longer needs the assistance or protection of a guardian. The court may modify the type of appointment or powers granted to the guardian if the extent of protection or assistance previously granted is currently excessive or insufficient or the ward's capacity to provide for support, care, education, health, and welfare has so changed as to warrant that action. The court may make any other order that is in the best interests of the ward or may grant other appropriate relief.

(c) Except as otherwise ordered by the court for good cause, the court, before terminating a guardianship, shall follow the same procedures to safeguard the rights of the ward as apply to a petition for guardianship. Upon presentation by the petitioner of evidence establishing a prima facie case for termination, the court shall order the termination and discharge the guardian unless it is proven that continuation of the guardianship is in the best interest of the ward.

Sec. 12. Minnesota Statutes 2008, section 524.5-406, is amended to read:

524.5-406 ORIGINAL PETITION: PERSONS UNDER DISABILITY; PRELIMINARIES TO HEARING.

(a) Upon the filing of a petition for a conservatorship or other protective order for a respondent for reasons other than being a minor, the court shall set a date for hearing and the court may appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition.

(b) A respondent has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the respondent for the initial proceeding held pursuant to section 524.5-408 if neither the respondent nor others provide counsel, unless in a meeting with a visitor, the proposed respondent makes an informed decision in writing to specifically waives waive the right to counsel. Before appointment, and at anytime during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed protected person or protected person, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed conservator or conservator and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed protected person or protected person will be materially limited by counsel's concurrent responsibilities to the proposed conservator or conservator. If there is a risk of a conflict of interest, the counsel must not be appointed, unless:

(1) the court determines that the proposed protected person or protected person is able to give informed consent to the representation and, if the proposed protected person or protected person consents, the consent is confirmed in writing pursuant to Rule 1.7; or

(2) the court determines that there is not a risk of a conflict of interest under Rule 1.7 requiring the appointment of different counsel.

Counsel must be appointed immediately after any petition under this part is served pursuant to section 524.5-404. Counsel has the full right of subpoena. In all proceedings under this part, counsel shall:

(1) consult with the respondent before any hearing;

(2) be given adequate time to prepare for all hearings; and

(3) continue to represent the respondent throughout any proceedings under section 524.5-408, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing conservator or the order dismissing a petition, or upon such other time or event as the court may direct.

The court need not appoint counsel to represent the respondent on a voluntary petition, and the court may remove a court-appointed attorney at any time if the court finds that the respondent has made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

(c) The visitor shall personally serve the notice and petition upon the respondent and shall offer to read the notice and petition to the respondent, and if so requested, the visitor shall read the notice and petition to such person. The visitor shall also interview the respondent in person, and to the extent that the respondent is able to understand:

(1) explain to the respondent the substance of the petition and the nature, purpose, and effect of the proceeding;

(2) if the appointment of a conservator is requested, inform the respondent of the general powers and duties of a conservator and determine the respondent's views regarding the proposed conservator, the proposed conservator's powers and duties, and the scope and duration of the proposed conservatorship;

(3) inform the respondent of the respondent's rights, including the right to employ and consult with a lawyer at the respondent's own expense, and the right to request a court-appointed lawyer; and

(4) inform the respondent that all costs and expenses of the proceeding, including respondent's attorney fees, will be paid from the respondent's estate.

(d) In addition to the duties set out in paragraph (c), the visitor shall make any other investigations the court directs.

(e) The visitor shall promptly file a report with the court which must include:

(1) recommendations regarding the appropriateness of a conservatorship, including whether less restrictive means of intervention are available, the type of conservatorship, and, if a limited conservatorship, the powers and duties to be granted the limited conservator, and the assets over which the conservator should be granted authority;

(2) a statement as to whether the respondent approves or disapproves of the proposed conservator, and the powers and duties proposed or the scope of the conservatorship; and

(3) any other matters the court directs.

(f) While a petition to establish a conservatorship or for another protective order is pending, after preliminary hearing and without notice to others, the court may make orders to preserve and apply the property of the respondent as may be required for the support of the respondent or individuals who are in fact dependent upon the respondent, and may appoint an agent to assist in that task.

(g) Before the initial appointment, and annually within 30 days after the anniversary date of the appointment, the proposed conservator or conservator shall file an informational statement with the court. The statement must be a sworn affidavit containing the following information:

(1) the person's educational background and relevant work and other experience;

(2) an address and telephone number where the conservator can be contacted;

(3) whether the person has ever been removed for cause from serving as a guardian or conservator and if so, the case number and court location;

(4) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study conducted pursuant to section 524.5-118; and

(5) if applicable, the amount of reimbursement for services rendered to the protected person that the person has received during the previous year.

Sec. 13. Minnesota Statutes 2008, section 524.5-409, is amended to read:

524.5-409 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a limited or unlimited conservator for a respondent only if it finds that:

(1) by clear and convincing evidence, the individual is unable to manage property and business affairs because of an impairment in the ability to receive and evaluate information or make decisions, even with the use of appropriate technological assistance, or because the individual is missing, detained, or unable to return to the United States;

(2) by a preponderance of evidence, the individual has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money; and

(3) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

(b) Alternatively, the court, with appropriate findings, may enter any other appropriate order, or dismiss the proceeding.

(c) The court, whenever feasible, shall grant to a conservator only those powers necessitated by the protected person's limitations and demonstrated needs and make appointive and other orders that will encourage the development of the protected person's maximum self-reliance and independence.

(d) Within 14 days after an appointment, the conservator shall send or deliver to the protected person, if the protected person has attained 14 years of age and is not missing, detained, or unable to return to the United States, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the protected person of the right to appeal the conservatorship appointment in the time and manner provided by the Rules of Appellate Procedure.

(e) Each year, within 30 days after the anniversary date of an appointment, a conservator shall send or deliver to the protected person and to interested persons of record with the court a notice of the right to request termination or modification of the conservatorship or for any order that is in the best interests of the protected person or for other appropriate relief.

(f) The appointment of a conservator or the entry of another protective order is not a determination of incapacity of the protected person.

Sec. 14. Minnesota Statutes 2008, section 524.5-413, is amended to read:

524.5-413 WHO MAY BE CONSERVATOR; PRIORITIES.

(a) Except as otherwise provided in paragraph (d), the court, in appointing a conservator, shall consider persons otherwise qualified in the following order of priority:

(1) a conservator, guardian of the estate, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the protected person resides;

(2) a person nominated as conservator by the respondent, including the respondent's most recent nomination made in a durable power of attorney, if the respondent has attained 14 years of age and at the time of the nomination had sufficient capacity to express a preference;

(3) an agent appointed by the respondent to manage the respondent's property under a durable power of attorney;

(4) the spouse of the respondent;

(5) an adult child of the respondent;

(6) a parent of the respondent; ~~and~~

(7) an adult with whom the respondent has resided for more than six months before the filing of the petition;

(8) an adult who is related to the respondent by blood, adoption, or marriage; and

(9) any other adult or a professional conservator.

(b) A person having priority under paragraph (a), clause (1), (4), (5), or (6), may designate in writing a substitute to serve instead and thereby transfer the priority to the substitute.

(c) The court, acting in the best interest of the protected person, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(d) In any proceeding where the value of the personal property of the estate of the proposed protected person in the initial inventory of the estate filed by the conservator under section 524.5-419 is expected to be at least \$10,000, the court shall require the conservator to post a bond. The bond requirement under this paragraph does not apply to conservators appointed before August 1, 2009, but shall apply as current conservatorships are reviewed by the court after August 1, 2009.

(e) Any individual or agency which provides residence, custodial care, medical care, employment training, or other care or services for which they receive a fee may not be appointed as conservator unless related to the respondent by blood, marriage, or adoption.

Sec. 15. Minnesota Statutes 2008, section 524.5-414, is amended to read:

524.5-414 PETITION FOR ORDER SUBSEQUENT TO APPOINTMENT.

(a) A protected person or an interested person may file a petition in the appointing court for an order:

(1) requiring bond or collateral or additional bond or collateral, or reducing bond;

(2) requiring an accounting for the administration of the protected person's estate;

(3) directing distribution;

(4) removing the conservator and appointing a temporary or successor conservator;

(5) modifying the type of appointment or powers granted to the conservator if the extent of protection or management previously granted is currently excessive or insufficient or the protected person's ability to manage the estate and business affairs has so changed as to warrant the action; or

(6) acting in the protected person's best interests or granting other appropriate relief.

(b) A conservator may petition the appointing court for instructions concerning fiduciary responsibility.

(c) On notice and hearing the petition, the court may give appropriate instructions and make any appropriate order.

(d) The court may, at its own discretion, waive the notice or hearing requirements for the relief requested in a petition filed under this section.

Sec. 16. Minnesota Statutes 2008, section 524.5-420, is amended to read:

524.5-420 REPORTS; APPOINTMENT OF VISITOR; MONITORING; COURT ORDERS.

(a) A conservator shall report to the court for administration of the estate annually unless the court otherwise directs, upon resignation or removal, upon termination of the conservatorship, and at other times as the court directs. An order, after notice and hearing, allowing an intermediate report of a conservator adjudicates liabilities concerning the matters adequately disclosed in the accounting. An order, after notice and hearing, allowing a final report adjudicates all previously unsettled liabilities relating to the conservatorship.

(b) A report must state or contain a listing of the assets of the estate under the conservator's control and a listing of the receipts, disbursements, and distributions during the reporting period.

(c) A protected person or an interested person of record with the court may submit to the court a written statement disputing account statements regarding the administration of the estate that are contained in the report and may petition the court for any order that is in the best interests of the protected person and the estate or for other appropriate relief.

(d) The court may appoint a visitor to review a report or plan, interview the protected person or conservator, and make any other investigation the court directs. In connection with a report, the court may order a conservator to submit the assets of the estate to an appropriate examination to be made in a manner the court directs.

~~(d)~~ (e) The court shall establish a system for monitoring of conservatorships, including the filing and review of conservators' reports and plans. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause."

Delete the title and insert:

"A bill for an act relating to probate; modifying provisions governing guardians and conservators; providing for fees for central registration and use of fee proceeds; amending Minnesota Statutes 2008, sections 260C.331, subdivision 1; 524.5-102, subdivision 7, by adding a subdivision; 524.5-304; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-413; 524.5-414; 524.5-420; proposing coding for new law in Minnesota Statutes, chapter 524."

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

House Conferees: PAUL THISSEN, JOE MULLERY and PAUL ANDERSON.

Senate Conferees: MEE MOUA, RON LATZ and DAVID HANN.

Thissen moved that the report of the Conference Committee on H. F. No. 804 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 804, A bill for an act relating to probate; modifying provisions governing guardians and conservators; amending Minnesota Statutes 2008, sections 260C.331, subdivision 1; 524.5-102, subdivision 7, by adding a subdivision; 524.5-304; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-413; 524.5-414; 524.5-420; proposing coding for new law in Minnesota Statutes, chapter 524.

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 127 yeas and 7 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Eastlund	Gottwalt	Severson
Buesgens	Emmer	Kiffmeyer	

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

CONFERENCE COMMITTEE REPORT ON 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.

May 15, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 928 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 928 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 160.165, as added by Laws 2009, chapter 36, article 3, section 2, is amended to read:

160.165 MITIGATION OF TRANSPORTATION CONSTRUCTION IMPACTS ON BUSINESS.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given:

(1) "project" means construction work to maintain, construct, reconstruct, or improve a street or highway or for a rail transit project;

(2) "substantial business impacts" means impairment of road access, parking, or visibility for one or more business establishments as a result of a project, for a minimum period of one month; and

(3) "transportation authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; ~~and~~ statutory or home rule charter cities, as to city streets; the Metropolitan Council, for rail transit projects located entirely within the metropolitan area as defined in section 473.121, subdivision 2; and the commissioner, for all other rail transit projects.

Subd. 2. **Business liaison.** (a) Before beginning construction work on a project, a transportation authority shall identify whether the project is anticipated to include substantial business impacts. For such projects, the transportation authority shall designate an individual to serve as business liaison between the transportation authority and affected businesses.

(b) The business liaison shall consult with affected businesses before and during construction to investigate means of mitigating project impacts to businesses. The mitigation considered must include signage. The business liaison shall provide information to the identified businesses before and during construction, concerning project duration and timetables, lane and road closures, detours, access impacts, customer parking impacts, visibility, noise, dust, vibration, and public participation opportunities.

Subd. 3. **Exception.** This section does not apply to construction work in connection with the Central Corridor light rail or transit line that will connect downtown Minneapolis and downtown St. Paul.

EFFECTIVE DATE. Subdivision 1 is effective July 1, 2011. Subdivision 3 is effective July 1, 2009.

Sec. 2. **[160.2755] PROHIBITED ACTIVITIES AT REST AREAS.**

Subdivision 1. **Prohibited activities.** It is unlawful at rest areas to:

- (1) dispose of travel-related trash and rubbish, except if depositing it in a designated receptacle;
- (2) dump household or commercial trash and rubbish into containers or anywhere else on site;
- (3) drain or dump refuse or waste from any trailer, recreational vehicle, or other vehicle except where receptacles are provided and designated to receive the refuse or waste;
- (4) stop and park continuously for a period in excess of six hours, except for:
 - (i) commercial motor vehicle operators as provided for under section 160.2721; and
 - (ii) employees on duty at the rest area;
- (5) pitch tents or sleep overnight outside a vehicle; or
- (6) allow a motor vehicle to remain unattended when no member of a party or group traveling in association with the motor vehicle or trailer is present at the rest area.

Subd. 2. **Penalty.** Violation of this section is a petty misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to acts committed on or after that date.

Sec. 3. Minnesota Statutes 2008, section 161.14, subdivision 62, as added by Laws 2009, chapter 18, section 1, is amended to read:

Subd. 62. **Clearwater County Veterans Memorial Highway.** (a) The following described route is designated the "Clearwater County Veterans Memorial Highway": that portion of Legislative Route No. 168, marked on the effective date of this section as Trunk Highway 200, from its intersection with Clearwater County State-Aid Highway 37_39 to its intersection with Legislative Route No. 169, marked on the effective date of this section as Trunk Highway 92; and that portion of Route No. 169 to its intersection with Clearwater County State-Aid Highway 5.

(b) The commissioner shall adopt a suitable marking design to mark this highway and erect appropriate signs, subject to section 161.139.

Sec. 4. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 64. **Veterans Memorial Highway.** Legislative Route No. 31, signed as Trunk Highway 200 as of the effective date of this section, from the border with North Dakota to the city of Mahanomen, is designated as the "Veterans Memorial Highway." The commissioner shall adopt a suitable design to mark this highway and erect appropriate signs, subject to section 161.139.

Sec. 5. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 65. **Becker County Veterans Memorial Highway.** Marked Trunk Highway 34, from its intersection with Washington Avenue in Detroit Lakes to its intersection with County State-Aid Highway 39; and marked Trunk Highway 87, from its intersection with County State-Aid Highway 33 to its intersection with County State-Aid Highway 39, is named and designated the "Becker County Veterans Memorial Highway." Subject to section 161.139, the commissioner shall adopt a suitable marking design to mark this highway and erect appropriate signs.

Sec. 6. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 66. **Granite City Crossing.** The bridge over the Mississippi River on marked Trunk Highway 23 in St. Cloud is designated "Granite City Crossing." The commissioner of transportation shall adopt a suitable design to mark this bridge and erect appropriate signs, subject to section 161.139.

Sec. 7. Minnesota Statutes 2008, section 165.14, subdivision 4, is amended to read:

Subd. 4. Prioritization of bridge projects. (a) The commissioner shall classify all bridges in the program into tier 1, 2, or 3 bridges, where tier 1 is the highest tier. Unless the commissioner identifies a reason for proceeding otherwise, before commencing bridge projects in a lower tier, all bridge projects within a higher tier must to the extent feasible be selected and funded in the approved state transportation improvement program, at any stage in the project development process, solicited for bids, in contract negotiation, under construction, or completed.

(b) The classification of each tier is as follows:

(1) tier 1 consists of any bridge in the program that (i) has an average daily traffic count that is above 1,000 and has a sufficiency rating that is at or below 50, or (ii) is identified by the commissioner as a priority project;

(2) tier 2 consists of any bridge that is not a tier 1 bridge, and (i) is classified as fracture-critical, or (ii) has a sufficiency rating that is at or below 80; and

(3) tier 3 consists of any other bridge in the program that is not a tier 1 or tier 2 bridge.

(c) By June 30, 2018, all tier 1 and tier 2 bridges originally included in the program must be under contract for repair or replacement with a new bridge that contains a load-path-redundant design, except that a specific bridge may remain in continued service if the reasons are documented in the report required under subdivision 5.

(d) All bridge projects funded under this section in fiscal year 2010 or later must include bicycle and pedestrian accommodations if both sides of the bridge are located in a city or the bridge links a pedestrian way, shared-use path, trail, or scenic bikeway.

Bicycle and pedestrian accommodations would not be required if:

(1) a comprehensive assessment demonstrates that there is an absence of need for bicycle and pedestrian accommodations for the life of the bridge; or

(2) there is a reasonable alternative bicycle and pedestrian crossing within one-quarter mile of the bridge project.

All bicycle and pedestrian accommodations should enable a connection to any existing bicycle and pedestrian infrastructure in close proximity to the bridge. All pedestrian facilities must meet or exceed federal accessibility requirements as outlined in Title II of the Americans with Disabilities Act, codified in United States Code, title 42, chapter 126, subchapter II, and Section 504 of the Rehabilitation Act of 1973, codified in United States Code, title 29, section 794.

(e) The commissioner shall establish criteria for determining the priority of bridge projects within each tier, and must include safety considerations as a criterion.

Sec. 8. Minnesota Statutes 2008, section 165.14, subdivision 5, is amended to read:

Subd. 5. **Statewide transportation planning report.** In conjunction with each update to the Minnesota statewide transportation plan, or at least every six years, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance. The report must include:

(1) an explanation of the criteria and decision-making processes used to prioritize bridge projects;

(2) a historical and projected analysis of the extent to which all trunk highway bridges meet bridge performance targets and comply with the accessibility requirements of Title II of the Americans with Disabilities Act;

(3) a summary of bridge projects (i) completed in the previous six years or since the last update to the Minnesota statewide transportation plan, and (ii) currently in progress under the program;

(4) a summary of bridge projects scheduled in the next four fiscal years and included in the state transportation improvement program;

(5) a projection of annual needs over the next 20 years;

(6) a calculation of funding necessary to meet the completion date under subdivision 4, paragraph (c), compared to the total amount of bridge-related funding available; and

(7) for any tier 1 fracture-critical bridge that is repaired but not replaced, an explanation of the reasons for repair instead of replacement.

Sec. 9. Minnesota Statutes 2008, section 168.33, subdivision 2, is amended to read:

Subd. 2. **Deputy registrars.** (a) The commissioner may appoint, and for cause discontinue, a deputy registrar for any statutory or home rule charter city as the public interest and convenience may require, without regard to whether the county auditor of the county in which the city is situated has been appointed as the deputy registrar for the county or has been discontinued as the deputy registrar for the county, and without regard to whether the county in which the city is situated has established a county license bureau that issues motor vehicle licenses as provided in section 373.32.

(b) The commissioner may appoint, and for cause discontinue, a deputy registrar for any statutory or home rule charter city as the public interest and convenience may require, if the auditor for the county in which the city is situated chooses not to accept appointment as the deputy registrar for the county or is discontinued as a deputy

registrar, or if the county in which the city is situated has not established a county license bureau that issues motor vehicle licenses as provided in section 373.32. The individual appointed by the commissioner as a deputy registrar for any statutory or home rule charter city must be a resident of the county in which the city is situated.

(c) The commissioner may appoint, and for cause discontinue, the county auditor of each county as a deputy registrar.

(d) Despite any other provision, a person other than a county auditor or a director of a county license bureau, who was appointed by the registrar before August 1, 1976, as a deputy registrar for any statutory or home rule charter city, may continue to serve as deputy registrar and may be discontinued for cause only by the commissioner. The county auditor who appointed the deputy registrars is responsible for the acts of deputy registrars appointed by the auditor.

(e) Each deputy, before entering upon the discharge of duties, shall take and subscribe an oath to faithfully discharge the duties and to uphold the laws of the state.

(f) If a deputy registrar appointed under this subdivision is not an officer or employee of a county or statutory or home rule charter city, the deputy shall in addition give bond to the state in the sum of \$10,000, or a larger sum as may be required by the commissioner, conditioned upon the faithful discharge of duties as deputy registrar.

(g) ~~Until January 1, 2012,~~ A corporation governed by chapter 302A may be appointed a deputy registrar. Upon application by an individual serving as a deputy registrar and the giving of the requisite bond as provided in this subdivision, personally assured by the individual or another individual approved by the commissioner, a corporation named in an application then becomes the duly appointed and qualified successor to the deputy registrar. ~~The appointment of any corporation as a deputy registrar expires January 1, 2012. The commissioner shall appoint an individual as successor to the corporation as a deputy registrar. The commissioner shall appoint as the successor agent to a corporation whose appointment expires under this paragraph an officer of the corporation if the officer applies for appointment before July 1, 2012.~~

(h) Each deputy registrar appointed under this subdivision shall keep and maintain office locations approved by the commissioner for the registration of vehicles and the collection of taxes and fees on vehicles.

(i) The deputy registrar shall keep records and make reports to the commissioner as the commissioner requires. The records must be maintained at the offices of the deputy registrar. The records and offices of the deputy registrar must at all times be open to the inspection of the commissioner or the commissioner's agents. The deputy registrar shall report to the commissioner by the next working day following receipt all registrations made and taxes and fees collected by the deputy registrar.

(j) The filing fee imposed under subdivision 7 must be deposited in the treasury of the place for which appointed or, if not a public official, a deputy shall retain the filing fee, but the registration tax and any additional fees for delayed registration the deputy registrar has collected the deputy registrar shall deposit by the next working day following receipt in an approved state depository to the credit of the state through the commissioner of finance. The place for which the deputy registrar is appointed through its governing body must provide the deputy registrar with facilities and personnel to carry out the duties imposed by this subdivision if the deputy is a public official. In all other cases, the deputy shall maintain a suitable facility for serving the public.

Sec. 10. Minnesota Statutes 2008, section 168.33, subdivision 7, is amended to read:

Subd. 7. **Filing fees; allocations.** (a) In addition to all other statutory fees and taxes, a filing fee of:

(1) \$4.50 is imposed on every vehicle registration renewal, excluding pro rate transactions; and

(2) \$8.50 is imposed on every other type of vehicle transaction, including pro rate transactions;

except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the Department of Public Safety, a dealer, or a deputy registrar. The filing fee must be shown as a separate item on all registration renewal notices sent out by the commissioner. No filing fee or other fee may be charged for the permanent surrender of a title for a vehicle.

(b) The statutory fees and taxes, and the filing fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the statutory fees, taxes, and filing fee not greater than the cost of processing a credit card or debit card transaction, in accordance with emergency rules established by the commissioner of public safety. The surcharge must be used to pay the cost of processing credit and debit card transactions.

(c) All of the fees collected under paragraph (a), clause (1), by the department, must be paid into the vehicle services operating account in the special revenue fund under section 299A.705. Of the fee collected under paragraph (a), clause (2), by the department, \$3.50 must be paid into the general fund with the remainder deposited into the vehicle services operating account in the special revenue fund under section 299A.705.

EFFECTIVE DATE. This section is effective for fees collected on and after August 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 168B.06, subdivision 1, is amended to read:

Subdivision 1. **Written notice of impound.** (a) When an impounded vehicle is taken into custody, the unit of government or impound lot operator taking it into custody shall give written notice of the taking within five days to the registered vehicle owner and any lienholders.

(b) The notice must:

- (1) set forth the date and place of the taking;
- (2) provide the year, make, model, and serial number of the impounded motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held;
- (3) inform the owner and any lienholders of their right to reclaim the vehicle under section 168B.07;
- (4) state that failure of the owner or lienholders to:
 - (i) exercise their right to reclaim the vehicle within the appropriate time allowed under section 168B.051, subdivision 1, 1a, or 2, and under the conditions set forth in section 168B.07, subdivision 1, constitutes a waiver by them of all right, title, and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle pursuant to section 168B.08; or
 - (ii) exercise their right to reclaim the contents of the vehicle within the appropriate time allowed and under the conditions set forth in section 168B.07, subdivision 3, constitutes a waiver by them of all right, title, and interest in the contents and consent to sell or dispose of the contents under section 168B.08; and

(5) state that a vehicle owner who provides to the impound lot operator documentation from a government or nonprofit agency or legal aid office that the owner is homeless, receives relief based on need, or is eligible for legal aid services, or has a household income at or below 50 percent of state median income has the unencumbered right to retrieve any and all contents without charge.

Sec. 12. Minnesota Statutes 2008, section 168B.07, subdivision 3, is amended to read:

Subd. 3. **Retrieval of contents.** (a) For purposes of this subdivision:

(1) "contents" does not include any permanently affixed mechanical or nonmechanical automobile parts; automobile body parts; or automobile accessories, including audio or video players; and

(2) "relief based on need" includes, but is not limited to, receipt of MFIP and Diversionary Work Program, medical assistance, general assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, MSA-emergency assistance, MinnesotaCare, Supplemental Security Income, energy assistance, emergency assistance, food stamps, earned income tax credit, or Minnesota working family tax credit.

(b) A unit of government or impound lot operator shall establish reasonable procedures for retrieval of vehicle contents, and may establish reasonable procedures to protect the safety and security of the impound lot and its personnel.

(c) At any time before the expiration of the waiting periods provided in section 168B.051, a registered owner who provides documentation from a government or nonprofit agency or legal aid office that the registered owner is homeless, receives relief based on need, or is eligible for legal aid services, or has a household income at or below 50 percent of state median income has the unencumbered right to retrieve any and all contents without charge and regardless of whether the registered owner pays incurred charges or fees, transfers title, or reclaims the vehicle.

Sec. 13. Minnesota Statutes 2008, section 169.011, is amended by adding a subdivision to read:

Subd. 40a. **Mini truck.** (a) "Mini truck" means a motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements.

(b) A mini truck does not include:

(1) a neighborhood electric vehicle or a medium-speed electric vehicle; or

(2) a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

Sec. 14. Minnesota Statutes 2008, section 169.041, subdivision 5, is amended to read:

Subd. 5. **Towing prohibited.** ~~Unless the vehicle is described in subdivision 4,~~ (a) A towing authority may not tow a motor vehicle because:

(1) the vehicle has expired registration tabs that have been expired for less than 90 days; or

(2) the vehicle is at a parking meter on which the time has expired and the vehicle has fewer than five unpaid parking tickets.

(b) A towing authority may tow a motor vehicle, notwithstanding paragraph (a), if:

(1) the vehicle is parked in violation of snow emergency regulations;

(2) the vehicle is parked in a rush-hour restricted parking area;

(3) the vehicle is blocking a driveway, alley, or fire hydrant;

- (4) the vehicle is parked in a bus lane, or at a bus stop, during hours when parking is prohibited;
- (5) the vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign;
- (6) the vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates;
- (7) the vehicle is parked in an area that has been posted for temporary restricted parking (A) at least 12 hours in advance in a home rule charter or statutory city having a population under 50,000, or (B) at least 24 hours in advance in another political subdivision;
- (8) the vehicle is parked within the right-of-way of a controlled-access highway or within the traveled portion of a public street when travel is allowed there;
- (9) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by fire, police, public safety, or emergency vehicles;
- (10) the vehicle is unlawfully parked on property at the Minneapolis-St. Paul International Airport owned by the Metropolitan Airports Commission;
- (11) a law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to obtain or preserve the evidence;
- (12) the driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping;
- (13) a law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses;
- (14) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by taxicabs;
- (15) the vehicle is unlawfully parked and prevents egress by a lawfully parked vehicle;
- (16) the vehicle is parked, on a school day during prohibited hours, in a school zone on a public street where official signs prohibit parking; or
- (17) the vehicle is a junk, abandoned, or unauthorized vehicle, as defined in section 168B.011, and subject to immediate removal under chapter 168B.

Sec. 15. Minnesota Statutes 2008, section 169.045, is amended to read:

169.045 SPECIAL VEHICLE USE ON ROADWAY.

Subdivision 1. **Designation of roadway, permit.** The governing body of any county, home rule charter or statutory city, or town may by ordinance authorize the operation of motorized golf carts, ~~or~~ four-wheel all-terrain vehicles, or mini trucks, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart ~~or~~ four-wheel all-terrain vehicle, or mini truck is by permit only. For purposes of this section, a four-wheel all-terrain vehicle is a motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds, and a mini truck has the meaning given in section 169.011, subdivision 40a.

Subd. 2. **Ordinance.** The ordinance shall designate the roadways, prescribe the form of the application for the permit, require evidence of insurance complying with the provisions of section 65B.48, subdivision 5 and may prescribe conditions, not inconsistent with the provisions of this section, under which a permit may be granted. Permits may be granted for a period of not to exceed one year, and may be annually renewed. A permit may be revoked at any time if there is evidence that the permittee cannot safely operate the motorized golf cart ~~or~~ four-wheel all-terrain vehicle, or mini truck on the designated roadways. The ordinance may require, as a condition to obtaining a permit, that the applicant submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart ~~or~~ four-wheel all-terrain vehicle, or mini truck on the roadways designated.

Subd. 3. **Times of operation.** Motorized golf carts and four-wheel all-terrain vehicles may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

Subd. 4. **Slow-moving vehicle emblem.** Motorized golf carts shall display the slow-moving vehicle emblem provided for in section 169.522, when operated on designated roadways.

Subd. 5. **Crossing intersecting highways.** The operator, under permit, of a motorized golf cart ~~or~~ four-wheel all-terrain vehicle, or mini truck may cross any street or highway intersecting a designated roadway.

Subd. 6. **Application of traffic laws.** Every person operating a motorized golf cart ~~or~~ four-wheel all-terrain vehicle, or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of this chapter, except when those provisions cannot reasonably be applied to motorized golf carts ~~or~~ four-wheel all-terrain vehicles, or mini trucks and except as otherwise specifically provided in subdivision 7.

Subd. 7. **Nonapplication of certain laws.** The provisions of chapter 171 are applicable to persons operating mini trucks, but are not applicable to persons operating motorized golf carts or four-wheel all-terrain vehicles under permit on designated roadways pursuant to this section. Except for the requirements of section 169.70, the provisions of this chapter relating to equipment on vehicles ~~is~~ are not applicable to motorized golf carts or four-wheel all-terrain vehicles operating, under permit, on designated roadways.

Subd. 8. **Insurance.** In the event persons operating a motorized golf cart ~~or~~ four-wheel, all-terrain vehicle, or mini truck under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile ~~Assigned Risk~~ Insurance Plan under sections 65B.01 to 65B.12 at a rate to be determined by the commissioner of commerce.

Sec. 16. Minnesota Statutes 2008, section 169.045, is amended by adding a subdivision to read:

Subd. 7a. **Required equipment on mini trucks.** Notwithstanding sections 169.48 to 169.68, or any other law, a mini truck may be operated under permit on designated roadways if it is equipped with:

(1) at least two headlamps;

(2) at least two taillamps;

(3) front and rear turn-signal lamps;

(4) an exterior mirror mounted on the driver's side of the vehicle and either (i) an exterior mirror mounted on the passenger's side of the vehicle or (ii) an interior mirror;

(5) a windshield;

(6) a seat belt for the driver and front passenger; and

(7) a parking brake.

Sec. 17. Minnesota Statutes 2008, section 169.15, is amended to read:

169.15 IMPEDING TRAFFIC; INTERSECTION GRIDLOCK.

Subdivision 1. Impeding traffic; drive at slow speed. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law or except when the vehicle is temporarily unable to maintain a greater speed due to a combination of the weight of the vehicle and the grade of the highway.

Subd. 2. Intersection gridlock; stop or block traffic. No driver of a motor vehicle shall enter an intersection controlled by a signal light until the vehicle is able to move completely through the intersection without impeding or blocking the subsequent movement of cross traffic, unless such movement is at the direction of a city-authorized traffic-control agent or a police officer or to facilitate passage of an authorized emergency vehicle. A violation of this subdivision does not constitute grounds for suspension or revocation of the violator's driver's license.

EFFECTIVE DATE. This section is effective January 1, 2010, and applies to acts committed on or after that date.

Sec. 18. Minnesota Statutes 2008, section 169.306, is amended to read:

169.306 USE OF SHOULDERS BY BUSES.

(a) The commissioner of transportation ~~may~~ is authorized to permit the use by transit buses and Metro Mobility buses of a shoulder, as designated by the commissioner, of a freeway or expressway, as defined in section 160.02, ~~in the seven-county metropolitan area in Minnesota.~~

(b) If the commissioner permits the use of a freeway or expressway shoulder by transit buses, the commissioner shall ~~also~~ permit the use on that shoulder of a bus (1) with a seating capacity of 40 passengers or more operated by a motor carrier of passengers, as defined in section 221.012, subdivision 26, while operating in intrastate commerce or (2) providing regular route transit service, as defined in section 174.22, subdivision 8, or Metro Mobility services, and operated by or under contract with the Metropolitan Council, a local transit authority, or a transit authority created by the legislature. Drivers of these buses must have adequate training in the requirements of paragraph (c), as determined by the commissioner.

(c) Buses authorized to use the shoulder under this section may be operated on the shoulder only when main-line traffic speeds are less than 35 miles per hour. Drivers of buses being operated on the shoulder may not exceed the speed of main-line traffic by more than 15 miles per hour and may never exceed 35 miles per hour. Drivers of buses being operated on the shoulder must yield to merging, entering, and exiting traffic and must yield to other vehicles on the shoulder. Buses operated on the shoulder must be registered with the Department of Transportation.

(d) For the purposes of this section, the term "Metro Mobility bus" means a motor vehicle of not less than 20 feet in length engaged in providing special transportation services under section 473.386 that is:

(1) operated by ~~the Metropolitan Council, or operated by~~ or under contract with a public or private entity receiving financial assistance to provide transit services from the Metropolitan Council or the commissioner of transportation; and

(2) authorized by the ~~council~~ commissioner to use freeway or expressway shoulders.

(e) This section does not apply to the operation of buses on dynamic shoulder lanes.

Sec. 19. Minnesota Statutes 2008, section 169.71, subdivision 1, as amended by Laws 2009, chapter 59, article 5, section 5, is amended to read:

Subdivision 1. **Prohibitions generally; exceptions.** (a) A person shall not drive or operate any motor vehicle with:

(1) a windshield cracked or discolored to an extent to limit or obstruct proper vision;

(2) any objects suspended between the driver and the windshield, other than:

(i) sun visors;

(ii) rearview mirrors;

(iii) driver feedback and safety-monitoring equipment when mounted immediately behind, slightly above, or slightly below the rearview mirror;

~~(iii)~~ (iv) global positioning systems or navigation systems when mounted or located near the bottommost portion of the windshield; and

~~(iv)~~ (v) electronic toll collection devices; or

(3) any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear windows of the vehicle, other than a certificate or other paper required to be so displayed by law or authorized by the state director of the Division of Emergency Management or the commissioner of public safety.

(b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

(c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles.

Sec. 20. Minnesota Statutes 2008, section 169.865, subdivision 1, is amended to read:

Subdivision 1. **Six-axle vehicles.** (a) A road authority may issue an annual permit authorizing a vehicle or combination of vehicles with a total of six axles to haul raw or unprocessed agricultural products and be operated with a gross vehicle weight of up to:

(1) 90,000 pounds; and

(2) 99,000 pounds during the period set by the commissioner under section 169.826, subdivision 1.

(b) Notwithstanding subdivision 4.3, paragraph (a), clause (4), a vehicle or combination of vehicles operated under this subdivision and transporting only sealed intermodal containers may be operated on an interstate highway if allowed by the United States Department of Transportation.

(c) The fee for a permit issued under this subdivision is \$300.

EFFECTIVE DATE. This section is effective August 1, 2008.

Sec. 21. Minnesota Statutes 2008, section 169.87, is amended by adding a subdivision to read:

Subd. 7. **Cargo tank vehicles.** (a) Weight restrictions imposed by the commissioner under subdivisions 1 and 2 do not apply to cargo tank vehicles with two or three permanent axles when delivering propane for heating or dyed fuel oil on seasonally weight-restricted roads if the vehicle is loaded at no more than 50 percent capacity of the cargo tank.

(b) To be exempt from weight restrictions under paragraph (a), a cargo tank vehicle used for propane must have an operating gauge on the cargo tank that shows the amount of propane as a percent of capacity of the cargo tank. Documentation of the capacity of the cargo tank must be available on the cargo tank or in the cab of the vehicle. For purposes of this subdivision, propane weighs 4.2 pounds per gallon.

(c) To be exempt from weight restrictions under paragraph (a), a cargo tank vehicle used for dyed fuel oil must utilize the forward two tank compartments and must carry documentation of the empty weight of the cargo tank vehicle from a certified scale in the cab of the vehicle. For purposes of this subdivision, dyed fuel oil weighs seven pounds per gallon.

(d) To the extent practicable, cargo tank vehicles that are exempt from weight restrictions under paragraph (a) shall complete deliveries on seasonally weight restricted roads by 12:00 p.m. and before the last week of April.

Sec. 22. Minnesota Statutes 2008, section 169A.275, subdivision 7, as amended by Laws 2009, chapter 29, section 1, is amended to read:

Subd. 7. **Exception.** (a) A judge is not required to sentence a person as provided in this section if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306.

(b) This subdivision expires July 1, 2011.

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

Sec. 23. Minnesota Statutes 2008, section 171.306, subdivision 1, as amended by Laws 2009, chapter 29, section 2, is amended to read:

Subdivision 1. **Pilot project established; reports.** The commissioner shall conduct a statewide two-year ignition interlock device pilot project as provided in this section. The pilot project must begin on July 1, 2009, and continue until June 30, 2011. The commissioner shall submit a preliminary report by September 30, 2010, and a final report by September 30, 2011, to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding. The reports must evaluate the successes and failures of the pilot project, provide information on participation rates, and make recommendations on continuing the project.

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

Sec. 24. Minnesota Statutes 2008, section 171.306, subdivision 3, as amended by Laws 2009, chapter 29, section 3, is amended to read:

Subd. 3. **Pilot project components.** (a) Under the pilot project, the commissioner shall issue a driver's license to an individual whose driver's license has been revoked under chapter 169A for an impaired driving incident if the person qualifies under this section and agrees to all of the conditions of the project.

(b) The commissioner must denote the person's driver's license record to indicate the person's participation in the program. The license must authorize the person to drive only vehicles having functioning ignition interlock devices conforming with the requirements of subdivision 2.

(c) Notwithstanding any statute or rule to the contrary, the commissioner has authority to and shall determine the appropriate period for which a person participating in the ignition interlock pilot program shall be subject to this program, and when the person is eligible to be issued:

- (1) a limited driver's license subject to the ignition interlock restriction;
- (2) full driving privileges subject to the ignition interlock restriction; and
- (3) a driver's license without an ignition interlock restriction.

(d) A person participating in this pilot project shall agree to participate in any treatment recommended by a chemical use assessment.

(e) The commissioner shall determine guidelines for participation in the project. A person participating in the project shall sign a written agreement accepting these guidelines and agreeing to comply with them.

(f) It is a misdemeanor for a person who is licensed under this section for driving a vehicle equipped with an ignition interlock device to drive, operate, or be in physical control of a motor vehicle other than a vehicle properly equipped with an ignition interlock device.

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

Sec. 25. Minnesota Statutes 2008, section 174.01, subdivision 1, is amended to read:

Subdivision 1. **Department created.** In order to provide a ~~balanced~~ an integrated transportation system, ~~including~~ including of aeronautics, highways, motor carriers, ports, public transit, railroads, and pipelines, and including facilities for walking and bicycling, a Department of Transportation is created. The department is the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans, and programs.

Sec. 26. Minnesota Statutes 2008, section 174.01, subdivision 2, is amended to read:

Subd. 2. **Transportation goals.** The goals of the state transportation system are as follows:

- (1) to ~~provide safe transportation~~ minimize fatalities and injuries for transportation users throughout the state;
- (2) to provide multimodal and intermodal transportation ~~that enhances mobility and economic development and provides access to all persons and businesses in Minnesota while ensuring that there is no~~ facilities and services to increase access for all persons and businesses and to ensure economic well-being and quality of life without undue burden placed on any community;
- (3) to provide a reasonable travel time for commuters;
- (4) to enhance economic development and provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;
- (5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists and to enhance the appeal, through transportation investments, of tourist destinations across the state;
- (6) to provide transit services ~~throughout~~ to all counties in the state to meet the needs of transit users;
- (7) to promote ~~productivity~~ accountability through system ~~systematic management~~ of system performance and productivity through the utilization of technological advancements;

- (8) to maximize the long-term benefits received for each state transportation investment;
- (9) to provide for and prioritize funding for of transportation investments that, at a minimum, preserves the transportation infrastructure ensures that the state's transportation infrastructure is maintained in a state of good repair;
- (10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;
- (11) to promote and increase the use of high-occupancy vehicles and low-emission vehicles;
- (12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;
- (13) to increase ~~transit~~ use of transit as a percentage of all trips statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost;
- (14) to promote and increase bicycling and walking as a percentage of all trips as ~~an~~ energy-efficient, nonpolluting, and ~~healthful form~~ healthy forms of transportation;
- (15) to reduce greenhouse gas emissions from the state's transportation sector; and
- (16) to accomplish these goals with minimal impact on the environment.

Sec. 27. Minnesota Statutes 2008, section 174.02, subdivision 1a, is amended to read:

Subd. 1a. **Mission; efficiency; legislative report, recommendations.** 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) minimize the degradation of air ~~and~~, water quality, and the climate, including reduction in greenhouse gas emissions;
- (4) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (5) 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;
- (6) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (7) 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
- (8) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 28. [174.285] MINNESOTA COUNCIL ON TRANSPORTATION ACCESS.

Subdivision 1. **Council established.** A Minnesota Council on Transportation Access is established to study, evaluate, oversee, and make recommendations to improve the coordination, availability, accessibility, efficiency, cost-effectiveness, and safety of transportation services provided to the transit public. "Transit public" means those persons who utilize public transit and those who, because of mental or physical disability, income status, or age are unable to transport themselves and are dependent upon others for transportation services.

Subd. 2. **Duties of council.** In order to accomplish the purposes in subdivision 1, the council shall adopt a biennial work plan that must incorporate the following activities:

(1) compile information on existing transportation alternatives for the transit public, and serve as a clearinghouse for information on services, funding sources, innovations, and coordination efforts;

(2) identify best practices and strategies that have been successful in Minnesota and in other states for coordination of local, regional, state, and federal funding and services;

(3) recommend statewide objectives for providing public transportation services for the transit public;

(4) identify barriers prohibiting coordination and accessibility of public transportation services and aggressively pursue the elimination of those barriers;

(5) recommend policies and procedures for coordinating local, regional, state, and federal funding and services for the transit public;

(6) identify stakeholders in providing services for the transit public, and seek input from them concerning barriers and appropriate strategies;

(7) recommend guidelines for developing transportation coordination plans throughout the state;

(8) encourage all state agencies participating in the council to purchase trips within the coordinated system;

(9) facilitate the creation and operation of transportation brokerages to match riders to the appropriate service, promote shared dispatching, compile and disseminate information on transportation options, and promote regional communication;

(10) encourage volunteer driver programs and recommend legislation to address liability and insurance issues;

(11) recommend minimum performance standards for delivery of services;

(12) identify methods to eliminate fraud and abuse in special transportation services;

(13) develop a standard method for addressing liability insurance requirements for transportation services purchased, provided, or coordinated;

(14) design and develop a contracting template for providing coordinated transportation services;

(15) recommend an interagency uniform contracting and billing and accounting system for providing coordinated transportation services;

(16) encourage the design and development of training programs for coordinated transportation services;

(17) encourage the use of public school transportation vehicles for the transit public;

(18) develop an allocation methodology that equitably distributes transportation funds to compensate units of government and all entities that provide coordinated transportation services;

(19) identify policies and necessary legislation to facilitate vehicle sharing; and

(20) advocate aggressively for eliminating barriers to coordination, implementing coordination strategies, enacting necessary legislation, and appropriating resources to achieve the council's objectives.

Subd. 3. Membership. (a) The council is comprised of the following 17 members:

(1) two members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration, one of whom must be a member of the minority;

(2) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;

(3) one representative from the Office of the Governor;

(4) one representative from the Council on Disability;

(5) one representative from the Minnesota Public Transit Association;

(6) the commissioner of transportation or a designee;

(7) the commissioner of human services or a designee;

(8) the commissioner of health or a designee;

(9) the chair of the Metropolitan Council or a designee;

(10) the commissioner of education or a designee;

(11) the commissioner of veterans affairs or a designee;

(12) one representative from the Board on Aging;

(13) the commissioner of employment and economic development or a designee;

(14) the commissioner of commerce or a designee; and

(15) the commissioner of finance or a designee.

(b) All appointments required by paragraph (a) must be completed by August 1, 2009.

(c) The commissioner of transportation or a designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council. The members shall elect a chairperson from their membership at the first meeting.

(d) The Department of Transportation and the Department of Human Services shall provide necessary staff support for the council.

Subd. 4. **Report.** By January 15 of each year, beginning in 2011, the council shall report its findings, recommendations, and activities to the governor's office and to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation, health, and human services, and to the legislature as provided under section 3.195.

Subd. 5. **Compensation.** Members of the council shall receive compensation and reimbursement of expenses as provided in section 15.059, subdivision 3.

Subd. 6. **Expiration.** This section expires June 30, 2013.

Sec. 29. Minnesota Statutes 2009, section 174.632, as added by Laws 2009, chapter 36, article 3, section 16, is amended to read:

174.632 PASSENGER RAIL; COMMISSIONER'S DUTIES.

(a) The planning, design, development, construction, operation, and maintenance of passenger rail track, facilities, and services are governmental functions, serve a public purpose, and are a matter of public necessity.

(b) The commissioner is responsible for all aspects of planning, designing, developing, constructing, equipping, operating, and maintaining passenger rail, including system planning, alternatives analysis, environmental studies, preliminary engineering, final design, construction, negotiating with railroads, and developing financial and operating plans.

(c) The commissioner may enter into a memorandum of understanding or agreement with a public or private entity, including a regional railroad authority, a joint powers board, and a railroad, to carry out these activities.

(d) The commissioner shall preserve all railroad employee rights under the Railway Labor Act, Federal Employers Liability Act, and Railroad Retirement and Unemployment Insurance Act, and federal railroad safety, occupational safety, and health laws.

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

Sec. 30. Minnesota Statutes 2008, section 174.86, subdivision 5, is amended to read:

Subd. 5. **Commuter Rail Corridor Coordinating Committee.** (a) A Commuter Rail Corridor Coordinating Committee ~~shall be~~ is established to advise the commissioner on issues relating to the alternatives analysis, environmental review, advanced corridor planning, preliminary engineering, final design, implementation method, construction of commuter rail, public involvement, land use, service, and safety. The Commuter Rail Corridor Coordinating Committee shall consist of:

- (1) one member representing each significant funding partner in whose jurisdiction the line or lines are located;
- (2) one member appointed by each county in which the corridors are located;
- (3) one member appointed by each city in which advanced corridor plans indicate that a station may be located;
- (4) two members appointed by the commissioner, one of whom shall be designated by the commissioner as the chair of the committee;
- (5) one member appointed by each metropolitan planning organization through which the commuter rail line may pass; ~~and~~

(6) one member appointed by the president of the University of Minnesota, if a designated corridor provides direct service to the university; and

(7) two ex-officio members who are members of labor organizations operating in, and with authority for, trains or rail yards or stations junctioning with freight and commuter rail lines on corridors, with one member appointed by the speaker of the house and the other member appointed by the senate Rules and Administration Subcommittee on Committees.

(b) A joint powers board existing on April 1, 1999, consisting of local governments along a commuter rail corridor, shall perform the functions set forth in paragraph (a) in place of the committee.

(c) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

Sec. 31. Minnesota Statutes 2008, section 219.01, is amended to read:

219.01 TRACK SAFETY STANDARDS; SAFETY TECHNOLOGY GRANTS.

(a) The track safety standards of the United States Department of Transportation and Federal Railroad Administration apply to railroad trackage and are the standards for the determination of unsafe trackage within the state.

(b) The commissioner of transportation shall apply to the Federal Railroad Administration under Public Law 110-432, the Railroad Safety Enhancement Act of 2008 (the act), for (1) railroad safety technology grant funding available under section 105 of the act and (2) development and installation of rail safety technology, including provision for switch position indicator signals in nonsignalized main track territory, under section 406 of the act. The commissioner shall respond and make application to the Federal Railroad Administration notice of funds availability under the Rail Safety Assurance Act in a timely manner and before the date of the program deadline to assure full consideration of the application. The commissioner shall (i) prioritize grant requests for the installation of switch indicator signals on all segments of nonsignalized track where posted speeds are in excess of 20 miles per hour and (ii) apply for grant funding in each year after 2009 until all nonsignalized track territory in the state has switch indicator signals installed and in operation.

(c) Prior to applying for funds under paragraph (b), the commissioner shall solicit grant requests from all eligible railroads. The commissioner shall submit written notice to the chairs of the legislative committees with jurisdiction over transportation policy and finance of an acceptance by a class I or class II railroad of federal grant program funding for switch point indicator monitor systems.

(d) Participating railroads shall provide the 20 percent nonfederal match. Railroads shall provide all technical documentation requested by the commissioner and required by the Federal Railroad Administration for the applications under paragraph (b). Railroads are responsible for developing, acquiring, and installing all rail safety technology obtained under this section in accordance with requirements established by the Federal Railroad Administration.

Sec. 32. Minnesota Statutes 2008, section 221.012, is amended by adding a subdivision to read:

Subd. 27a. **Motor carrier of railroad employees.** "Motor carrier of railroad employees" means a motor carrier engaged in the for-hire transportation of railroad employees of a class I or II common carrier, as defined in Code of Federal Regulations, title 49, part 1201, general instruction 1-1, under the terms of a contractual agreement with a common carrier, as defined in section 218.011, subdivision 10.

Sec. 33. Minnesota Statutes 2008, section 221.012, subdivision 38, is amended to read:

Subd. 38. **Small vehicle passenger service.** (a) "Small vehicle passenger service" means a service provided by a person engaged in the for-hire transportation of passengers in a vehicle designed to transport seven or fewer persons, including the driver.

(b) In the metropolitan area as defined in section 473.121, subdivision 2, "small vehicle passenger service" also includes for-hire transportation of persons who are certified by the Metropolitan Council to use special transportation service provided under section 473.386, in a vehicle designed to transport not more than 15 persons including the driver, that is equipped with a wheelchair lift and at least three wheelchair securement positions.

(c) "Small vehicle passenger service" does not include a motor carrier of railroad employees.

Sec. 34. **[221.0255] MOTOR CARRIER OF RAILROAD EMPLOYEES.**

(a) A motor carrier of railroad employees must meet the requirements specified in this section, is subject to section 221.291, and is otherwise exempt from the provisions of this chapter.

(b) A vehicle operator for a motor carrier of railroad employees who transports passengers must:

(1) have a valid driver's license under chapter 171; and

(2) submit to a physical examination.

(c) The carrier must implement a policy that provides for annual training and certification of the operator in:

(1) safe operation of the vehicle transporting railroad employees;

(2) knowing and understanding relevant laws, rules of the road, and safety policies;

(3) handling emergency situations;

(4) proper use of seat belts;

(5) performance of pretrip and post-trip vehicle inspections, and inspection record keeping; and

(6) proper maintenance of required records.

(d) The carrier must:

(1) perform a background check or background investigation of the operator;

(2) annually verify the operator's driver's license;

(3) document meeting the requirements in this subdivision, and maintain the file at the carrier's business location;

(4) maintain liability insurance in a minimum amount of \$5,000,000 regardless of the seating capacity of the vehicle; and

(5) maintain uninsured and underinsured coverage in a minimum amount of \$1,000,000.

If a party contracts with the motor carrier on behalf of the railroad to transport the railroad employees, then the insurance requirements may be satisfied by either that party or the motor carrier, so long as the motor carrier is a named insured or additional insured under any policy.

(e) A person who sustains a conviction of violating section 169A.25, 169A.26, 169A.27, or 169A.31, or whose driver's license is revoked under sections 169A.50 to 169A.53 of the implied consent law, or who is convicted of or has their driver's license revoked under a similar statute or ordinance of another state, may not operate a vehicle under this subdivision for five years from the date of conviction. A person who sustains a conviction of a moving offense in violation of chapter 169 within three years of the first of three other moving offenses may not operate a vehicle under this subdivision for one year from the date of the last conviction. A person who has ever been convicted of a disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not operate a vehicle under this subdivision.

(f) An operator who sustains a conviction as described in paragraph (e) while employed by the carrier shall report the conviction to the carrier within ten days of the date of the conviction.

(g) A carrier must implement a mandatory alcohol and controlled substance testing program as provided under sections 181.950 to 181.957 that consists of preemployment testing, post-accident testing, random testing, reasonable suspicion testing, return-to-duty testing, and follow-up testing.

(h) A motor carrier of railroad employees shall not allow or require a driver to drive or remain on duty for more than: ten hours after eight consecutive hours off duty; 15 hours of combined on-duty time and drive time since last obtaining eight consecutive hours of off-duty time; or 70 hours of on-duty and drive time in any period of eight consecutive days. After 24 hours off duty, a driver begins a new seven consecutive day period and on-duty time is reset to zero.

(i) An operator who encounters an emergency and cannot, because of that emergency, safely complete a transportation assignment within the ten-hour maximum driving time permitted under paragraph (h), may drive for not more than two additional hours in order to complete that transportation assignment or to reach a place offering safety for the occupants of the vehicle and security for the transport motor vehicle, if the transportation assignment reasonably could have been completed within the ten-hour period absent the emergency.

(j) A carrier shall maintain and retain for a period of six months accurate time records that show the time the driver reports for duty each day; the total number of hours of on-duty time for each driver for each day; the time the driver is released from duty each day; and the total number of hours driven each day.

(k) For purposes of this subdivision, the following terms have the meanings given:

(1) "conviction" has the meaning given in section 609.02; and

(2) "on-duty time" means all time at a terminal, facility, or other property of a contract carrier or on any public property waiting to be dispatched. "On-duty time" includes time spent inspecting, servicing, or conditioning the vehicle.

EFFECTIVE DATE. Paragraph (d), clause (5), is effective July 1, 2010.

Sec. 35. Minnesota Statutes 2008, section 360.031, is amended to read:

360.031 DEFINITION OF MUNICIPALITY.

For the purposes of sections 360.031 to ~~360.045~~ 360.074, (except section 360.042), "municipality" means any county, city, town, or airport authority of this state.

Sec. 36. Minnesota Statutes 2008, section 360.0425, is amended to read:

360.0425 GENERAL POWERS OF AUTHORITY.

An airport authority created under section 360.0426 has all the powers granted a municipality under sections 360.032 to ~~360.046~~ 360.074.

Sec. 37. Minnesota Statutes 2008, section 473.167, subdivision 2a, is amended to read:

Subd. 2a. **Hardship Loans for acquisition and relocation.** (a) The council may make ~~hardship~~ loans to acquiring authorities within the metropolitan area to purchase homestead property located in a proposed state trunk highway right-of-way or project, and to provide relocation assistance. Acquiring authorities are authorized to accept the loans and to acquire the property. Except as provided in this subdivision, the loans shall be made as provided in subdivision 2. Loans shall be in the amount of the fair market value of the homestead property plus relocation costs and less salvage value. Before construction of the highway begins, the acquiring authority shall convey the property to the commissioner of transportation at the same price it paid, plus relocation costs and less its salvage value. Acquisition and assistance under this subdivision must conform to sections 117.50 to 117.56.

(b) The council may make ~~hardship~~ loans only when:

(1) the owner of affected homestead property requests acquisition and relocation assistance from an acquiring authority;

(2) federal or state financial participation is not available;

(3) the owner is unable to sell the homestead property at its appraised market value because the property is located in a proposed state trunk highway right-of-way or project as indicated on an official map or plat adopted under section 160.085, 394.361, or 462.359; and

(4) the council agrees to and approves the fair market value of the homestead property, which approval shall not be unreasonably withheld; ~~and~~.

~~(5) the owner of the homestead property is burdened by circumstances that constitute a hardship, such as catastrophic medical expenses; a transfer of the homestead owner by the owner's employer to a distant site of employment; or inability of the owner to maintain the property due to physical or mental disability or the permanent departure of children from the homestead.~~

(c) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Acquiring authority" means counties, towns, and statutory and home rule charter cities in the metropolitan area.

(2) "Homestead property" means a single-family dwelling occupied by the owner, and the surrounding land, not exceeding a total of ten acres.

(3) "Salvage value" means the probable sale price of the dwelling and other property that is severable from the land if offered for sale on the condition that it be removed from the land at the buyer's expense, allowing a reasonable time to find a buyer with knowledge of the possible uses of the property, including separate use of serviceable components and scrap when there is no other reasonable prospect of sale.

Sec. 38. Minnesota Statutes 2008, section 473.411, subdivision 5, is amended to read:

Subd. 5. **Use of public roadways and appurtenances.** The council may use for the purposes of sections 473.405 to 473.449 upon the conditions stated in this subdivision any state highway or other public roadway, parkway, or lane, or any bridge or tunnel or other appurtenance of a roadway, without payment of any

compensation, provided the use does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance or entail any substantial additional costs for maintenance. The provisions of this subdivision do not apply to the property of any common carrier railroad or common carrier railroads. The consent of the public agency in charge of such state highway or other public highway or roadway or appurtenance is not required; except that if the council seeks to use a designated parkway for regular route service in the city of Minneapolis, it must obtain permission from and is subject to reasonable limitations imposed by a joint board consisting of two representatives from the council, two members of the board of park commissioners, and a fifth member jointly selected by the ~~representatives of the council and the park~~ other members of the board. If the use is a designated Minneapolis parkway for regular route service adjacent to the city of Minneapolis, it must obtain permission from and is subject to reasonable limitations imposed by a joint board consisting of two representatives from the council, two members of the board of park commissioners, and a fifth member jointly selected by other members of the board. The joint board must include a nonvoting member appointed by the council of the city in which the parkway is located.

The board of park commissioners and the council may designate persons to sit on the joint board. In considering a request by the council to use designated parkways for additional routes or trips, the joint board consisting of the council or their designees, the board of park commissioners or their designees, and the fifth member, shall base its decision to grant or deny the request based on the criteria to be established by the joint board. The decision to grant or deny the request must be made within 45 days of the date of the request. The park board must be notified immediately by the council of any temporary route detours. If the park board objects to the temporary route detours within five days of being notified, the joint board must convene and decide whether to grant the request, otherwise the request is deemed granted. If the agency objects to the proposed use or claims reimbursement from the council for additional cost of maintenance, it may commence an action against the council in the district court of the county wherein the highway, roadway, or appurtenance, or major portion thereof, is located. The proceedings in the action must conform to the Rules of Civil Procedure applicable to the district courts. The court shall sit without jury. If the court determines that the use in question interferes unreasonably with the public use or maintenance of the roadway or appurtenance, it shall enjoin the use by the council. If the court determines that the use in question does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance, but that it entails substantial additional maintenance costs, the court shall award judgment to the agency for the amount of the additional costs. Otherwise the court shall award judgment to the council. An aggrieved party may appeal from the judgment of the district court in the same manner as is provided for such appeals in other civil actions. The council may also use land within the right-of-way of any state highway or other public roadway for the erection of traffic control devices, other signs, and passenger shelters upon the conditions stated in this subdivision and subject only to the approval of the commissioner of transportation where required by statute, and subject to the express provisions of other applicable statutes and to federal requirements where necessary to qualify for federal aid.

Sec. 39. Minnesota Statutes 2008, section 514.18, subdivision 1a, is amended to read:

Subd. 1a. **Towed motor vehicles.** A person who tows and stores a motor vehicle at the request of a law enforcement officer shall have a lien on the motor vehicle for the value of the storage and towing and the right to retain possession of the motor vehicle until the lien is lawfully discharged. This section does not apply to tows ~~authorized in section 169.041, subdivision 4, clause (1) of vehicles parked in violation of snow emergency regulations.~~

Sec. 40. 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) analysis of the potential impact of recent and forecast demographic, socioeconomic, and travel trends on systemwide travel demand and the impact of changing travel demand on:

(i) transportation system needs, including infrastructure, facilities, and services;

(ii) air pollution; and

(iii) future transportation revenues.

The analysis required in clause (7) must take into account variability among the department's districts and must consider findings from the 2008 National Household Travel Survey. The commissioner shall collaborate with the Metropolitan Council on the council's land use and planning resources report to help determine how land use variability may play a role in future travel demand.

(c) The commissioner shall report the results of the study to the legislature no later than ~~November 1, 2009~~ January 15, 2010.

Sec. 41. Laws 2008, chapter 287, article 1, section 122, is amended to read:

Sec. 122. **NULLIFICATION OF EXPEDITED TOWN ROAD EXTINGUISHMENT.**

(a) Any extinguishment of town interest in a town road under Minnesota Statutes, section 164.06, subdivision 2, is hereby nullified if:

(1) the interest was not recorded or filed with the county recorder but was recorded or filed with the county auditor prior to 1972;

(2) the state or a political subdivision has constructed or funded a road or bridge improvement on a right-of-way affected by the interest;

(3) the affected road was the only means of access to a property;

(4) the extinguishment took place within the last ten years; and

(5) a person whose only access to property was lost because of the extinguishment files a petition of a nullification with the town board stating that the person's property became landlocked because of the extinguishment and that the road satisfies all of the requirements of paragraph (a), clauses (1) to (4). A copy of the road order found filed or recorded with the county auditor must be attached to the petition. The town shall file the petition with the county auditor and record it with the county recorder.

(b) Notwithstanding Minnesota Statutes, sections 164.08, subdivision 1, and 541.023, for any nullification under paragraph (a), the affected road is hereby deemed to be a cartway. No additional damages or other payments may be required other than those paid at the time the fee interest was originally acquired and the order filed with the county auditor. A cartway created by this paragraph may be converted to a private driveway under Minnesota Statutes, section 164.08, subdivision 2.

(c) For purposes of this section, "affected road" means the road in which the town board extinguished its interest.

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

Sec. 42. **TRUNK HIGHWAY 19 CLOSURE IN NEW PRAGUE.**

The commissioner of transportation shall annually authorize the city of New Prague to close Route No. 100, signed as Trunk Highway 19 on the effective date of this section, from the intersection with Route No. 13, signed as Trunk Highways 13 and 21 on the effective date of this section, to 10th Avenue SE, located in the city of New Prague. The closure under this section is limited to one weekend in the month of September of each year, and is for the city's annual Dozinky Festival. The commissioner shall (1) establish reasonable requirements for traffic flow, traffic control devices, and safety related to implementation of an appropriate detour route; and (2) allow the road closure from 5:30 p.m. on Friday until 6:00 a.m. on Sunday.

Sec. 43. **ADDITIONAL DEPUTY REGISTRAR OF MOTOR VEHICLES FOR CITY OF FARMINGTON.**

Notwithstanding Minnesota Statutes, section 168.33, and rules adopted by the commissioner of public safety, limiting sites for the office of deputy registrar based on either the distance to an existing deputy registrar office or the annual volume of transactions processed by any deputy registrar, the commissioner of public safety shall appoint a municipal deputy registrar of motor vehicles for the city of Farmington to operate a new full-service Office of Deputy Registrar, with full authority to function as a registration and motor vehicle tax collection bureau, at the city hall in the city of Farmington. All other provisions regarding the appointment and operation of a deputy registrar of motor vehicles under Minnesota Statutes, section 168.33, and Minnesota Rules, chapter 7406, apply to the office.

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the governing body of the city of Farmington and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 44. **ENVIRONMENTAL IMPACT STATEMENT COMPLETION.**

Subdivision 1. **Highway 14; New Ulm to Highway 6 segment.** By December 31, 2010, the commissioner of transportation shall submit the final environmental impact statement for the segment of marked Trunk Highway 14 from the City of New Ulm to County State-Aid Highway 6 in the county of Nicollet to the Federal Highway Administration in the United States Department of Transportation.

Subd. 2. **Highway 14; Highway 218 to Highway 56 segment.** By May 31, 2010, the commissioner of transportation shall submit the final environmental impact statement for the segment of marked Trunk Highway 14 from its intersection with marked Trunk Highway 218 in Owatonna to marked Trunk Highway 56 in Dodge Center to the Federal Highway Administration in the United States Department of Transportation.

Subd. 3. **Monthly report.** If the commissioner of transportation does not meet the requirements of subdivision 1 or 2, the commissioner must report monthly, by the 15th of each month in writing, to the chairs and ranking members of the standing committees of the house of representatives and senate having jurisdiction over transportation issues, and post on the department's Web site the following information:

(1) the stage of the environmental impact statement process in which the department failed to meet the environmental impact statement submission deadline specified in subdivision 1 or 2;

(2) the cause of the department's failure to meet the environmental impact statement submission deadline;

(3) the estimated time needed to resolve the cause of the failure to meet the environmental impact statement submission deadline; and

(4) the revised date of completing and submitting the environmental impact statement, if applicable.

Monthly reports required under this subdivision must begin January 15, 2011, if the deadline specified in subdivision 1 is not met, and June 15, 2010, if the deadline specified in subdivision 2 is not met. The monthly reports must continue and be updated to reflect new information until the required environmental impact statements are submitted to the United States Department of Transportation.

Subd. 4. **Resources.** The commissioner shall perform the duties required under this section within existing appropriations allocated to transportation districts 6 and 7.

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

Sec. 45. **RAIL GRANT FUNDING APPLICATION.**

The commissioner of transportation shall work in cooperation with the state of Wisconsin to prepare and submit timely application for grant funding relating to the planning, design, development, and construction of a high-speed passenger rail line connecting Chicago, La Crosse, and the Twin Cities including the Union Depot Concourse Multimodal Transit Hub.

Sec. 46. **REPEALER.**

(a) Minnesota Statutes 2008, sections 13.721, subdivision 4; and 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, and 18, are repealed.

(b) Minnesota Statutes 2008, section 169.041, subdivisions 3 and 4, are repealed.

Sec. 47. **EFFECTIVE DATE.**

Sections 13, 15, and 16 are effective August 1, 2009, and expire July 31, 2012."

Delete the title and insert:

"A bill for an act relating to transportation; modifying or adding provisions relating to transportation construction impacts on business, rest areas, highways, bridges, deputy registrars, vehicles, fees, impounds, mini trucks, towing, intersection gridlock, bus operation, various traffic regulations, cargo tank vehicle weight exemptions, transportation department goals and mission, a Minnesota Council of Transportation Access, a Commuter Rail Corridor Coordinating Committee, railroad track safety, motor carriers of railroad employees, airport authorities, property acquisition for highways, transit, town road interest extinguishment nullification, closure of highway 19, submission of final environmental impact statements regarding highways, and rail grant

funding; requiring study and reports; making technical and clarifying changes; amending Minnesota Statutes 2008, sections 160.165, as added; 161.14, subdivision 62, as added, by adding subdivisions; 165.14, subdivisions 4, 5; 168.33, subdivisions 2, 7; 168B.06, subdivision 1; 168B.07, subdivision 3; 169.011, by adding a subdivision; 169.041, subdivision 5; 169.045; 169.15; 169.306; 169.71, subdivision 1, as amended; 169.865, subdivision 1; 169.87, by adding a subdivision; 169A.275, subdivision 7, as amended; 171.306, subdivisions 1, as amended, 3, as amended; 174.01, subdivisions 1, 2; 174.02, subdivision 1a; 174.632, as added; 174.86, subdivision 5; 219.01; 221.012, subdivision 38, by adding a subdivision; 360.031; 360.0425; 473.167, subdivision 2a; 473.411, subdivision 5; 514.18, subdivision 1a; Laws 2008, chapter 287, article 1, sections 118; 122; proposing coding for new law in Minnesota Statutes, chapters 160; 174; 221; repealing Minnesota Statutes 2008, sections 13.721, subdivision 4; 169.041, subdivisions 3, 4; 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18."

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

House Conferees: FRANK HORNSTEIN, MARSHA SWAILS, TERRY MORROW, BOBBY JOE CHAMPION and DEAN URDAHL.

Senate Conferees: STEVE MURPHY, D. SCOTT DIBBLE, DICK DAY, JOHN DOLL and KATIE SIEBEN.

Hornstein moved that the report of the Conference Committee on H. F. No. 928 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

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

The question was taken on the repassage of the bill and the roll was called. There were 123 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Faust	Hortman	Laine	McNamara
Anderson, P.	Davids	Fritz	Hosch	Lanning	Morgan
Anderson, S.	Davnie	Gardner	Howes	Lenczewski	Morrow
Anzelc	Dean	Garofalo	Huntley	Lesch	Mullery
Atkins	Demmer	Gottwalt	Jackson	Liebling	Murdock
Benson	Dettmer	Greiling	Johnson	Lieder	Murphy, E.
Bigham	Dill	Gunther	Juhnke	Lillie	Murphy, M.
Bly	Dittrich	Hansen	Kahn	Loeffler	Nelson
Brod	Doepke	Haws	Kalin	Loon	Newton
Brown	Doty	Hayden	Kath	Mack	Nornes
Brynaert	Downey	Hilstrom	Kelly	Mahoney	Norton
Bunn	Drazkowski	Hilty	Kiffmeyer	Mariani	Obermueller
Carlson	Eastlund	Holberg	Knuth	Marquart	Olin
Champion	Eken	Hoppe	Koenen	Masin	Otremba
Clark	Falk	Hornstein	Kohls	McFarlane	Paymar

Pelowski	Rukavina	Seifert	Smith	Tillberry	Westrom
Persell	Ruud	Sertich	Solberg	Torkelson	Winkler
Peterson	Sailer	Severson	Sterner	Urdahl	Spk. Kelliher
Poppe	Sanders	Simon	Swails	Wagenius	
Reinert	Scalze	Slawik	Thao	Ward	
Rosenthal	Scott	Slocum	Thissen	Welti	

Those who voted in the negative were:

Anderson, B.	Buesgens	Hackbarth	Hausman	Peppin	Zellers
Beard	Emmer	Hamilton	Magnus	Shimanski	

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

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1849

A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; changing appropriations for certain costs of Office of Administrative Hearings; amending Minnesota Statutes 2008, sections 16C.28, subdivision 1a; 306.243, by adding a subdivision; 326B.145; 344.18; 365.28; 375.055, subdivision 1; 375.12, subdivision 2; 382.265; 383B.021; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 415.11, by adding a subdivision; 429.041, subdivisions 1, 2; 469.015; 473.862; 641.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4.

May 17, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1849 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1849 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[14.128] EFFECTIVE DATE FOR RULES REQUIRING LOCAL IMPLEMENTATION.**

Subdivision 1. Determination. An agency must determine if a local government will be required to adopt or amend an ordinance or other regulation to comply with a proposed agency rule. An agency must make this determination before the close of the hearing record or before the agency submits the record to the administrative law judge if there is no hearing. The administrative law judge must review and approve or disapprove the agency's determination. "Local government" means a town, county, or home rule charter or statutory city.

Subd. 2. Effective dates. If the agency determines that the proposed rule requires adoption or amendment of an ordinance or other regulation, or if the administrative law judge disapproves the agency's determination that the rule does not have this effect, the rule may not become effective until:

(1) the next July 1 or January 1 after notice of final adoption is published in the State Register; or

(2) a later date provided by law or specified in the proposed rule.

Subd. 3. **Exceptions.** Subdivision 2 does not apply:

(1) to a rule adopted under section 14.388, 14.389, or 14.3895, or under another law specifying that the rulemaking procedures of this chapter do not apply;

(2) if the agency has been directed by law to adopt the rule or to commence the rulemaking process;

(3) if the administrative law judge approves an agency's determination that the rule has been proposed pursuant to a specific federal statutory or regulatory mandate that requires the rule to take effect before the date specified in subdivision 1; or

(4) if the governor waives application of subdivision 2.

Sec. 2. Minnesota Statutes 2008, section 168.33, subdivision 7, is amended to read:

Subd. 7. **Filing fees; allocations.** (a) In addition to all other statutory fees and taxes, a filing fee of:

(1) \$4.50 is imposed on every vehicle registration renewal, excluding pro rate transactions; and

(2) \$8.50 is imposed on every other type of vehicle transaction, including pro rate transactions;

except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the Department of Public Safety, a dealer, or a deputy registrar. The filing fee must be shown as a separate item on all registration renewal notices sent out by the commissioner. No filing fee or other fee may be charged for the permanent surrender of a title for a vehicle.

(b) The fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the fee not to exceed the cost of processing a credit card or debit card transaction, in accordance with emergency rules established by the commissioner of public safety.

(c) All of the fees collected under paragraph (a), clause (1), by the department, must be paid into the vehicle services operating account in the special revenue fund under section 299A.705. Of the fee collected under paragraph (a), clause (2), by the department, \$3.50 must be paid into the general fund with the remainder deposited into the vehicle services operating account in the special revenue fund under section 299A.705.

EFFECTIVE DATE. This section is effective for fees collected after July 31, 2009.

Sec. 3. Minnesota Statutes 2008, section 306.243, is amended by adding a subdivision to read:

Subd. 6. **Abandonment; end of operation as cemetery.** A county that has accepted responsibility for an abandoned cemetery may prohibit further burials in the abandoned cemetery, and may cease all acceptance of responsibility for new burials.

Sec. 4. Minnesota Statutes 2008, section 326B.145, is amended to read:

326B.145 ANNUAL REPORT.

~~Beginning with the first report filed by June 30, 2003,~~ Each municipality shall annually report by June 30 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors if the cumulative fees collected exceeded \$5,000 in the reporting year, except that, for reports due June 30, 2009, to June 30, 2013, the reporting threshold is \$10,000. The report must include:

- (1) the number and valuation of units for which fees were paid;
- (2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and
- (3) the expenses associated with the municipal activities for which fees were collected.

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

Sec. 5. Minnesota Statutes 2008, section 331A.02, subdivision 1, is amended to read:

Subdivision 1. **Qualification.** No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is a qualified newspaper. A newspaper that is not qualified must inform a public body that presents a public notice for publication that it is not qualified. To be qualified, a newspaper shall:

(a) be printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 1,000 square inches, or 800 square inches if the political subdivision the newspaper purports to serve has a population of under 1,300 and the newspaper does not receive a public subsidy;

(b) if a daily, be distributed at least five days each week. If not a daily, the newspaper may be distributed twice a month with respect to the publishing of government public notices. In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve. Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) be circulated in the political subdivision which it purports to serve, and either have at least ~~500~~ 400 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the political subdivision it purports to serve has a population of under 1,300, or have at least ~~500~~ 400 copies regularly distributed without charge to local residents, or 250 copies distributed without charge to local residents if the political subdivision it purports to serve has a population of under 1,300;

(e) have its known office of issue established in either the county in which lies, in whole or in part, the political subdivision which the newspaper purports to serve, or in an adjoining county;

(f) file a copy of each issue immediately with the State Historical Society;

(g) be made available at single or subscription prices to any person or entity requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication;

(i) between September 1 and December 31 of each year publish a sworn United States Post Office periodicals-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of at least one year ending no earlier than the June 30 preceding the publication deadline. When publication occurs after December 31 and before July 1, qualification shall be effective from the date of the filing described in paragraph (j) through December 31 of that year; and

(j) after publication, submit to the secretary of state by December 31 a filing containing the newspaper's name, address of its known office of issue, telephone number, and a statement that it has complied with all of the requirements of this section. The filing must be accompanied by a fee of \$25. The secretary of state shall make available for public inspection a list of newspapers that have filed. Acceptance of a filing does not constitute a guarantee by the state that any other qualification has been met.

Sec. 6. Minnesota Statutes 2008, section 344.18, is amended to read:

344.18 COMPENSATION OF VIEWERS.

Fence viewers must be paid for their services by the person employing them ~~at the rate of \$15 each for each day's employment. \$60 must be deposited with the town or city treasurer before the service is performed. Upon completion of the service, any of the \$60 not spent to compensate the fence viewers must be returned to the depositor. The town board may by resolution require the person employing the fence viewers to post a bond or other security acceptable to the board for the total estimated costs before the viewing takes place. The total estimated costs may include the cost of professional and other services, hearing costs, administrative costs, recording costs, and other costs and expenses which the town may incur in connection with the viewing.~~

Sec. 7. Minnesota Statutes 2008, section 365.28, is amended to read:

365.28 PUBLIC BURIAL GROUND IS TOWN'S AFTER TEN YEARS.

A tract of land in a town becomes town property after it has been used as a public burial ground for ten years if the tract is not owned by a cemetery association. The town board shall control the burial ground as it controls other town cemeteries. A town that has accepted responsibility for an abandoned cemetery may prohibit further burials in the abandoned cemetery, and may cease all acceptance of responsibility for new burials.

Sec. 8. Minnesota Statutes 2008, section 375.055, subdivision 1, is amended to read:

Subdivision 1. **Fixed by county board.** (a) The county commissioners in all counties, except Hennepin and Ramsey, shall receive as compensation for services rendered by them for their respective counties, annual salaries and in addition may receive per diem payments and reimbursement for necessary expenses in performing the duties of the office as set by resolution of the county board. The salary and schedule of per diem payments shall not be effective until January 1 of the next year. The resolution shall contain a statement of the new salary on an annual basis. The board may establish a schedule of per diem payments for service by individual county commissioners on any board, committee, or commission of county government including committees of the board, or for the performance of services by individual county commissioners when required by law. In addition to its publication in the official newspaper of the county as part of the proceedings of the meeting of the county board, the resolution setting the salary and schedule of per diem payments shall be published in one other newspaper of the county, if there is one located in a different municipality in the county than the official newspaper. The salary of a county commissioner or the schedule of per diem payments shall not change except in accordance with this subdivision.

(b) Notwithstanding paragraph (a), a resolution adopted by the county board to decrease commissioners' salaries or per diem payments may take effect at any time.

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

Sec. 9. Minnesota Statutes 2008, section 375.12, subdivision 2, is amended to read:

Subd. 2. **Small claims totaled.** Individualized itemized accounts, claims or demands allowed by the county board pursuant to section 471.38, subdivision 1, need not be published pursuant to subdivision 1, if the amount allowed from each claim is ~~\$300~~ \$2,000 or less. The official proceedings following the itemization of accounts required shall contain a statement showing the total number of claims that did not exceed ~~\$300~~ \$2,000 and their total dollar amount.

Sec. 10. Minnesota Statutes 2008, section 382.265, is amended to read:

382.265 CLERK HIRE IN CERTAIN COUNTIES.

In all counties of this state where the amount of clerk hire now or hereafter provided by law for any county office shall be insufficient to meet the requirements of said office, the county officer in need of additional clerk hire shall prepare a petition and statement setting forth therein the amount of additional clerk hire needed and file the same with the county auditor, who shall present the same to the board of county commissioners at the next meeting of said board. If the board of county commissioners shall grant said petition by majority vote of all members elected to the board, then the amount of additional clerk hire requested in said petition shall thereupon become effective for said office. Said board shall act on any such petition within 60 days from the time it has been filed with the county auditor. If the board of county commissioners shall determine that the amount of additional clerk hire requested in said petition is excessive and more than is necessary for said office, it shall fix the amount of such additional clerk hire to be allowed, if any, and notify such officer thereof. ~~If said county officer or any taxpayer of the county shall be dissatisfied with the decision of the board of county commissioners, the officer may, at the officer's own expense, within ten days after the decision of said board, appeal to the district court. The district court, either in term or vacation and upon ten days' notice to the chair of the board of county commissioners, shall hear such appeal and summarily determine the amount of additional clerk hire needed by an order, a copy of which shall be filed with the county auditor.~~

Sec. 11. Minnesota Statutes 2008, section 383B.021, is amended to read:

383B.021 COMPENSATION.

No per diem payment shall be allowed county board members for service on the county board or any other county body. County board members shall pay for parking in county owned parking facilities where payment is required. County board members may be allowed mileage for use of their personal automobile at a rate per mile.

The Hennepin County board may set the salary of board members by resolution limited to that subject. The salary must be stated as a fixed dollar amount. Adjustments in commissioners' salaries shall be adopted by the county board by resolution prior to a general election to take effect January 1 of the succeeding year, except that a resolution adopted by the county board to decrease commissioners' salaries may take effect at any time. Any resolution that makes an adjustment must state the change and the resulting salary for a member as fixed dollar amounts.

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

Sec. 12. Minnesota Statutes 2008, section 384.151, subdivision 1a, is amended to read:

Subd. 1a. **Implementation.** (a) The county board of each of the counties ~~specified in subdivision 1~~ of less than 75,000 population annually shall set by resolution the salary of the county auditor which shall be paid to the county auditor at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county auditor the board shall set by resolution the minimum salary to be paid the county auditor for the term next following.

(c) In the event a vacancy occurs in the office of county auditor the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board, in any case specified in this subdivision, may not set the annual salary at an amount less than the minimums provided in this subdivision but it may set the salary in excess of such minimums.~~

~~(e)~~ (d) The salary of the county auditor shall not be reduced during the term for which the auditor was elected or appointed.

~~(f)~~ (e) In the event that duties are assigned to the auditor which are in addition to duties as auditor, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which the additional compensation is to be paid.

Sec. 13. Minnesota Statutes 2008, section 385.373, subdivision 1a, is amended to read:

Subd. 1a. **Implementation.** (a) The county board of each of the counties ~~specified in subdivision 1 of less than 75,000 population~~ annually shall set by resolution the salary of the county treasurer which shall be paid to the county treasurer at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county treasurer the board shall set by resolution the minimum salary to be paid the county treasurer for the term next following.

(c) In the event a vacancy occurs in the office of county treasurer the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board in no case may set the annual salary at an amount less than the minimums provided in this subdivision but it may set the salary in excess of the minimums.~~

~~(e)~~ (d) The salary of the county treasurer shall not be reduced during the term for which the treasurer was elected or appointed.

~~(f)~~ (e) In the event that duties are assigned to the treasurer which are in addition to duties as treasurer, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which the additional compensation is to be paid.

Sec. 14. Minnesota Statutes 2008, section 386.015, subdivision 2, is amended to read:

Subd. 2. **Board's salary procedure.** (a) The county board of each of the counties ~~specified in subdivision 1 of less than 75,000 population~~ annually shall set by resolution the salary of the county recorder which shall be paid to the county recorder at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county recorder the board shall set by resolution the minimum salary to be paid county recorder for the term next following.

(c) In the event a vacancy occurs in the office of the county recorder the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board in any case specified in this subdivision may not set the annual salary at an amount less than the minimum provided in subdivision 1 but it may set the salary in excess of such minimums.~~

~~(e)~~ (d) The salary of the county recorder shall not be reduced during the term for which the recorder is elected or appointed.

~~(f)~~ (e) In the event that duties are assigned to the county recorder which are in addition to duties as county recorder, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which the additional compensation is to be paid.

Sec. 15. Minnesota Statutes 2008, section 387.20, subdivision 1, is amended to read:

Subdivision 1. **Counties under 75,000.** ~~(a) The sheriffs of all counties of the state with less than 75,000 inhabitants according to the 1960 federal census shall receive yearly salaries for all services rendered by them for their respective counties, not less than the following amounts according to the then last preceding federal census:~~

- ~~(1) in counties with less than 10,000 inhabitants, \$6,000;~~
- ~~(2) in counties with 10,000 but less than 20,000 inhabitants, \$6,500;~~
- ~~(3) in counties with 20,000 but less than 30,000 inhabitants, \$7,000;~~
- ~~(4) in counties with 30,000 but less than 40,000 inhabitants, \$7,500;~~
- ~~(5) in counties with 40,000 or more inhabitants, \$8,000.~~

~~(b) (a)~~ In addition to ~~such the~~ sheriff's salary ~~each, the~~ sheriff shall be reimbursed for all expenses incurred in the performance of official duties for the sheriff's county and the claim for ~~such the~~ expenses shall be prepared, allowed, and paid in the same manner as other claims against counties are prepared, allowed, and paid except that the expenses incurred by ~~such the~~ sheriffs in the performance of service required of them in connection with insane persons either by a district court or by law and a per diem for deputies and assistants necessarily required under ~~such the~~ performance of ~~such the~~ services shall be allowed and paid as provided by the law regulating the apprehension, examination, and commitment of insane persons; provided that any sheriff or deputy receiving an annual salary shall pay over any per diem received to the county in the manner and at the time prescribed by the county board, but not less often than once each month.

~~(e) (b)~~ All claims for livery hire shall state the purpose for which such livery was used and have attached thereto a receipt for the amount paid for such livery signed by the person of whom it was hired.

~~(d) (c)~~ A county may pay a sheriff or deputy as compensation for the use of a personal automobile in the performance of official duties a mileage allowance prescribed by the county board or a monthly or other periodic allowance in lieu of mileage. The allowance for automobile use is not subject to limits set by other law.

Sec. 16. Minnesota Statutes 2008, section 387.20, subdivision 2, is amended to read:

Subd. 2. **Board procedure, details.** (a) The county board of each of the counties ~~specified in this section of less than 75,000 population~~ annually shall set by resolution the salary of the county sheriff which shall be paid to the county sheriff at such intervals as the board shall determine, but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county sheriff the board shall set by resolution the minimum salary to be paid the county sheriff for the term next following.

(c) In the event a vacancy occurs in the office of county sheriff, the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board in any case specified in this subdivision may not set the annual salary at an amount less than the minimum provided in this subdivision, but it may set the salary in excess of such minimums.~~

~~(e) (d)~~ The salary of the county sheriff shall not be reduced during the term for which the sheriff was elected or appointed.

Sec. 17. Minnesota Statutes 2008, section 415.11, is amended by adding a subdivision to read:

Subd. 3. **Temporary reductions.** Notwithstanding subdivision 2 or a charter provision to the contrary, the governing body may enact an ordinance to take effect before the next succeeding municipal election that reduces the salaries of the members of the governing body. The ordinance shall be in effect for 12 months, unless another period of time is specified in the ordinance, after which the salary of the members reverts to the salary in effect immediately before the ordinance was enacted.

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

Sec. 18. Minnesota Statutes 2008, section 429.041, subdivision 1, is amended to read:

Subdivision 1. **Plans and specifications, advertisement for bids.** When the council determines to make any improvement, it shall let the contract for all or part of the work, or order all or part of the work done by day labor or otherwise as authorized by subdivision 2, no later than one year after the adoption of the resolution ordering such improvement, unless a different time limit is specifically stated in the resolution ordering the improvement. The council shall cause plans and specifications of the improvement to be made, or if previously made, to be modified, if necessary, and to be approved and filed with the clerk, and if the estimated cost exceeds ~~\$50,000~~ the amount in section 471.345, subdivision 3, shall advertise for bids for the improvement in the newspaper and such other papers and for such length of time as it may deem advisable. If the estimated cost exceeds ~~\$100,000~~ twice the amount in section 471.345, subdivision 3, publication shall be made no less than three weeks before the last day for submission of bids once in the newspaper and at least once in either a newspaper published in a city of the first class or a trade paper. To be eligible as such a trade paper, a publication shall have all the qualifications of a legal newspaper except that instead of the requirement that it shall contain general and local news, such trade paper shall contain building and construction news of interest to contractors in this state, among whom it shall have a general circulation. The advertisement shall specify the work to be done, shall state the time when the bids will be publicly opened for consideration by the council, which shall be not less than ten days after the first publication of the advertisement when the estimated cost is less than ~~\$100,000~~ twice the amount in section 471.345, subdivision 3, and not less than three weeks after such publication in other cases, and shall state that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, cashier's check, bid bond, or certified check payable to the clerk, for such percentage of the amount of the bid as the council may specify. In providing for the advertisement for bids the council may direct that the bids shall be opened publicly by two or more designated officers or agents of the municipality and tabulated in advance of the meeting at which they are to be considered by the council. Nothing herein shall prevent the council from advertising separately for various portions of the work involved in an improvement, or from itself, supplying by such means as may be otherwise authorized by law, all or any part of the materials, supplies, or equipment to be used in the improvement or from combining two or more improvements in a single set of plans and specifications or a single contract.

Sec. 19. Minnesota Statutes 2008, section 429.041, subdivision 2, is amended to read:

Subd. 2. **Contracts; day labor.** In contracting for an improvement, the council shall require the execution of one or more written contracts and bonds, conditioned as required by law. The council shall award the contract to the lowest responsible bidder or it may reject all bids. If any bidder to whom a contract is awarded fails to enter promptly into a written contract and to furnish the required bond, the defaulting bidder shall forfeit to the municipality the amount of the defaulter's cash deposit, cashier's check, bid bond, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder. When it appears to the council that the cost of the entire work projected will be less than ~~\$50,000~~ the amount in section 471.345, subdivision 3, or whenever no bid is submitted after proper advertisement or the only bids submitted are higher than the engineer's estimate, the council may advertise for new bids or, without advertising for bids, directly purchase the materials for the work and do it by the employment of day labor or in any other manner the council considers proper. The council may have the work supervised by the city engineer or other qualified person but shall have the work supervised by a registered engineer if done by day labor and it appears to the council that the entire cost of all work and materials for the

improvement will be more than ~~\$25,000~~ the lowest amount in section 471.345, subdivision 4. In case of improper construction or unreasonable delay in the prosecution of the work by the contractor, the council may order and cause the suspension of the work at any time and relet the contract, or order a reconstruction of any portion of the work improperly done, and where the cost of completion or reconstruction necessary will be less than ~~\$50,000~~ the amount in section 471.345, subdivision 3, the council may do it by the employment of day labor.

Sec. 20. Minnesota Statutes 2008, section 469.015, is amended to read:

469.015 LETTING OF CONTRACTS; PERFORMANCE BONDS.

Subdivision 1. **Bids; notice.** All construction work, and work of demolition or clearing, and every purchase of equipment, supplies, or materials, necessary in carrying out the purposes of sections 469.001 to 469.047, that involve expenditure of ~~\$50,000~~ the amount in section 471.345, subdivision 3, or more shall be awarded by contract. Before receiving bids the authority shall publish, once a week for two consecutive weeks in an official newspaper of general circulation in the community a notice that bids will be received for that construction work, or that purchase of equipment, supplies, or materials. The notice shall state the nature of the work and the terms and conditions upon which the contract is to be let, naming a time and place where bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After the bids have been received, opened and read publicly and recorded, the authority shall award the contract to the lowest responsible bidder, provided that the authority reserves the right to reject any or all bids. Each contract shall be executed in writing, and the person to whom the contract is awarded shall give sufficient bond to the authority for its faithful performance. If no satisfactory bid is received, the authority may readvertise. The authority may establish reasonable qualifications to determine the fitness and responsibility of bidders and to require bidders to meet the qualifications before bids are accepted.

Subd. 1a. **Best value alternative.** As an alternative to the procurement method described in subdivision 1, the authority may issue a request for proposals and award the contract to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 2. **Exception; emergency.** If the authority by a vote of four-fifths of its members shall declare that an emergency exists requiring the immediate purchase of any equipment or material or supplies at a cost in excess of ~~\$50,000~~ the amount in section 471.345, subdivision 3, but not exceeding ~~\$75,000~~ one-half again as much as the amount in section 471.345, subdivision 3, or making of emergency repairs, it shall not be necessary to advertise for bids, but the material, equipment, or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids. An emergency, for purposes of this subdivision, shall be understood to be unforeseen circumstances or conditions which result in the placing in jeopardy of human life or property.

Subd. 3. **Performance and payment bonds.** Performance and payment bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of sections 574.26 to 574.31 except for contracts entered into by an authority for an expenditure of less than ~~\$50,000~~ the minimum threshold amount in section 471.345, subdivision 3.

Subd. 4. **Exceptions.** (a) An authority need not require competitive bidding in the following circumstances:

(1) in the case of a contract for the acquisition of a low-rent housing project:

(i) for which financial assistance is provided by the federal government;

(ii) which does not require any direct loan or grant of money from the municipality as a condition of the federal financial assistance; and

(iii) for which the contract provides for the construction of the project upon land that is either owned by the authority for redevelopment purposes or not owned by the authority at the time of the contract but the contract provides for the conveyance or lease to the authority of the project or improvements upon completion of construction;

(2) with respect to a structured parking facility:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of tax increment or parking ramp general obligation or revenue bonds;

(3) until August 1, 2009, with respect to a facility built for the purpose of facilitating the operation of public transit or encouraging its use:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of parking ramp general obligation or revenue bonds or with at least 60 percent of the construction cost being financed with funding provided by the federal government; and

(4) in the case of any building in which at least 75 percent of the usable square footage constitutes a housing development project if:

(i) the project is financed with the proceeds of bonds issued under section 469.034 or from nongovernmental sources;

(ii) the project is either located on land that is owned or is being acquired by the authority only for development purposes, or is not owned by the authority at the time the contract is entered into but the contract provides for conveyance or lease to the authority of the project or improvements upon completion of construction; and

(iii) the authority finds and determines that elimination of the public bidding requirements is necessary in order for the housing development project to be economical and feasible.

(b) An authority need not require a performance bond for the following projects:

(1) a contract described in paragraph (a), clause (1);

(2) a construction change order for a housing project in which 30 percent of the construction has been completed;

(3) a construction contract for a single-family housing project in which the authority acts as the general construction contractor; or

(4) a services or materials contract for a housing project.

For purposes of this paragraph, "services or materials contract" does not include construction contracts.

Subd. 5. Security in lieu of bond. The authority may accept a certified check or cashier's check in the same amount as required for a bond in lieu of a performance bond for contracts entered into by an authority for an expenditure of less than ~~\$50,000~~ the minimum threshold amount in section 471.345, subdivision 3. The check must be held by the authority for 90 days after the contract has been completed. If no suit is brought within the 90 days, the authority must return the amount of the check to the person making it. If a suit is brought within the 90-day period, the authority must disburse the amount of the check pursuant to the order of the court.

Sec. 21. Minnesota Statutes 2008, section 471.661, is amended to read:

471.661 OUT-OF-STATE TRAVEL.

~~By January 1, 2006,~~ The governing body of each statutory or home rule charter city, county, school district, regional agency, or other political subdivision, except a town, must ~~develop~~ have on record a policy that controls travel outside the state of Minnesota for the applicable elected officials of the relevant unit of government. The policy must be approved by a recorded vote and specify:

- (1) when travel outside the state is appropriate;
- (2) applicable expense limits; and
- (3) procedures for approval of the travel.

The policy must be made available for public inspection upon request ~~and reviewed annually~~. Subsequent changes to the policy must be approved by a recorded vote.

Sec. 22. Minnesota Statutes 2008, section 473.862, is amended to read:

473.862 METRO COUNTIES OTHER THAN HENNEPIN, RAMSEY, ANOKA, AND DAKOTA.

Subdivision 1. **Contents of plan.** Comprehensive plans of counties shall contain at least the following:

- (a) Except for the counties of Hennepin ~~and~~ Ramsey, Anoka, and Dakota, a land use plan as specified in section 473.859, subdivision 2, for all unincorporated territory within the county;
- (b) A public facilities plan which shall include all appropriate matters specified in section 473.859, subdivision 3, including a transportation plan, and a description of existing and projected solid waste disposal sites and facilities;
- (c) An implementation program, as specified in section 473.859, subdivision 4.

Subd. 2. **Towns with no plan by 1976.** Each county other than Hennepin ~~and~~ Ramsey, Anoka, and Dakota shall prepare, with the participation and assistance of the town, the comprehensive plan for any town within the county which fails by December 31, 1976, to take action by resolution pursuant to section 473.861, subdivision 2 and shall prepare all or part of any plan delegated to it pursuant to section 473.861, subdivision 2.

Subd. 3. **Towns that cannot plan.** Each county other than Hennepin ~~and~~ Ramsey, Anoka, and Dakota shall prepare, with the participation and assistance of the town, the comprehensive plan for each town within the county not authorized to plan under sections 462.351 to 462.364, or under special law.

Sec. 23. Minnesota Statutes 2008, section 641.12, subdivision 1, is amended to read:

Subdivision 1. **Fee.** A county board may require that each person who is booked for confinement at a county or regional jail, and not released upon completion of the booking process, pay a fee ~~of up to \$10~~ to the sheriff's department of the county in which the jail is located to cover costs incurred by the county in the booking of that person. The fee is payable immediately from any money then possessed by the person being booked, or any money deposited with the sheriff's department on the person's behalf. If the person has no funds at the time of booking or during the period of any incarceration, the sheriff shall notify the district court in the county where the charges related to the booking are pending, and shall request the assessment of the fee. Notwithstanding section 609.10 or 609.125, upon notification from the sheriff, the district court must order the fee paid to the sheriff's department as part of any sentence or disposition imposed. If the person is not charged, is acquitted, or if the charges are dismissed, the sheriff shall return the fee to the person at the last known address listed in the booking records.

Sec. 24. **RECORD RETENTION TASK FORCE; REPORT TO LEGISLATURE.**

The Records Retention Task Force of the Minnesota Clerks and Finance Officers Association, in conjunction with the Minnesota Historical Society, must conduct a study to review the permanent retention schedules applicable to the records of all governmental bodies in the state. The task force study must contain recommendations for future methods of determining the appropriate time for the retention of various classes of records maintained by the governmental bodies and the task force must report its findings to the appropriate standing committees of the senate and house of representatives whose jurisdiction includes the maintenance of public records by February 15, 2010.

Sec. 25. **REPEALER.**

Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1 and 3; 385.373, subdivisions 1 and 3; 386.015, subdivisions 1 and 4; and 387.20, subdivision 4, are repealed."

Delete the title and insert:

"A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; changing requirements for a qualified newspaper; amending Minnesota Statutes 2008, sections 168.33, subdivision 7; 306.243, by adding a subdivision; 326B.145; 331A.02, subdivision 1; 344.18; 365.28; 375.055, subdivision 1; 375.12, subdivision 2; 382.265; 383B.021; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 415.11, by adding a subdivision; 429.041, subdivisions 1, 2; 469.015; 471.661; 473.862; 641.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4."

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

House Conferees: MICHAEL V. NELSON, FRANK HORNSTEIN and MORRIE LANNING.

Senate Conferees: ANN H. REST, CHRIS GERLACH and TONY LOUREY.

Nelson moved that the report of the Conference Committee on H. F. No. 1849 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 1849, A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; changing appropriations for certain costs of Office of Administrative Hearings; amending Minnesota Statutes 2008, sections 16C.28, subdivision 1a; 306.243, by adding a subdivision; 326B.145; 344.18; 365.28; 375.055, subdivision 1; 375.12, subdivision 2; 382.265; 383B.021; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 415.11, by adding a subdivision; 429.041, subdivisions 1, 2; 469.015; 473.862; 641.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4.

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

The question was taken on the repassage of the bill and the roll was called. There were 126 yeas and 8 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Eastlund	Garofalo	Peppin
Buesgens	Emmer	Hackbarth	Zellers

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

Pursuant to rule 1.50, Simon moved that the House be allowed to continue in session after 12:00 midnight. The motion prevailed.

MESSAGES FROM THE SENATE, Continued

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:

S. F. No. 1091.

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. 1091

A bill for an act relating to transportation; restricting weight limits on the Stillwater Lift Bridge.

May 14, 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. 1091 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1091 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 169.81, subdivision 3, is amended to read:

Subd. 3. **Length of vehicle combinations.** (a) Statewide, except on the highways identified under provisions in paragraph (c), no combination of vehicles may exceed a total length of 75 feet.

(b) However, the total length limitation does not apply to combinations of vehicles transporting:

(1) telephone poles, electric light and power poles, piling, or pole-length pulpwood; or

(2) pipe or other objects by a public utility when required for emergency or repair of public service facilities or when operated under special permits as provided in section 169.86.

These combinations of vehicles must be equipped with sufficient clearance markers, or lamps for night transportation, on both sides and upon the extreme ends of a projecting load to clearly mark the dimensions of the load.

(c) The following combination of vehicles regularly engaged in the transportation of commodities may operate only on divided highways having four or more lanes of travel, and on other highways as may be designated by the commissioner of transportation subject to section 169.87, subdivision 1, and subject to the approval of the authority having jurisdiction over the highway, for the purpose of providing reasonable access between the divided highways of four or more lanes of travel and terminals, facilities for food, fuel, repair, and rest, and points of loading and unloading for household goods carriers, livestock carriers, or for the purpose of providing continuity of route:

(1) a truck-tractor and semitrailer exceeding 75 feet in length;

(2) a combination of vehicles including a truck-tractor and semitrailer drawing one additional semitrailer which may be equipped with an auxiliary dolly;

(3) a combination of vehicles including a truck-tractor and semitrailer drawing one full trailer;

(4) a truck-tractor and semitrailer designed and used exclusively for the transportation of motor vehicles or boats and exceeding an overall length of 75 feet including the load; and

(5) a truck or truck-tractor transporting similar vehicles by having the front axle of the transported vehicle mounted onto the center or rear part of the preceding vehicle, defined in Code of Federal Regulations, title 49, sections 390.5 and 393.5 as drive-away saddlemount combinations or drive-away saddlemount vehicle transporter combinations, when the overall length exceeds 75 feet.

(d) Vehicles operated under the provisions of this section must conform to the standards for those vehicles prescribed by the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, as amended.

(e) For purposes of this paragraph, "total length" means the overall length of the motor vehicle including (1) bumpers and load; and (2) the length of any semitrailer, as defined in section 168.002, subdivision 30, and any trailer, as defined in section 168.002, subdivision 35. The maximum allowable total length of a commercial vehicle combination is 55 feet on that portion of marked Trunk Highway 36 from the intersection with marked Trunk Highway 95 and Washington County State-Aid Highway 23 in Stillwater, to the Stillwater lift bridge, located on marked Trunk Highway 36 over the St. Croix River in Stillwater. This paragraph does not apply to emergency vehicles; motor vehicles while engaged in work on the bridge or on the portion of highway described in this paragraph, including snow and ice removal and flood control; a vehicle carrying an oversize permit issued under section 169.86, subdivision 5, paragraph (d); and vehicles on the Stillwater lift bridge.

EFFECTIVE DATE. This section is effective the day the commissioner erects signs giving notice of the prohibition established in this section.

Sec. 2. **MARKED TRUNK HIGHWAY 36 VEHICLE LENGTH RESTRICTION SIGNS.**

(a) No later than July 1, 2009, the commissioner of transportation shall erect signs at appropriate locations giving notice that the maximum allowable total length of a commercial vehicle combination is 55 feet on that portion of marked Trunk Highway 36 from the intersection with marked Trunk Highway 95 and Washington County State-Aid Highway 23 in Stillwater, to the Stillwater lift bridge, located on marked Trunk Highway 36 over the St. Croix River.

(b) The commissioner shall request that the state of Wisconsin post similar signs on the Wisconsin side of the bridge.

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

Delete the title and insert:

"A bill for an act relating to transportation; restricting length limits for commercial vehicle combinations on portion of marked Trunk Highway 36; amending Minnesota Statutes 2008, section 169.81, subdivision 3."

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

Senate Conferees: RAY VANDEVEER, STEVE MURPHY and KATHY SALTZMAN.

House Conferees: MATT DEAN, JULIE BUNN and LEON LILLIE.

Dean moved that the report of the Conference Committee on S. F. No. 1091 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1091, A bill for an act relating to transportation; restricting weight limits on the Stillwater Lift Bridge.

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

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 6 nays 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
Atkins	Downey	Hoppe	Lieder	Obermueller	Slawik
Beard	Drazkowski	Hornstein	Lillie	Olin	Smith
Bigham	Eastlund	Hortman	Loeffler	Otremba	Solberg
Bly	Eken	Hosch	Loon	Paymar	Swails
Brod	Emmer	Howes	Mack	Pelowski	Thao
Brown	Falk	Huntley	Magnus	Peppin	Thissen
Brynaert	Faust	Jackson	Mahoney	Persell	Torkelson
Buesgens	Fritz	Johnson	Mariani	Peterson	Urdahl
Bunn	Gardner	Juhnke	Marquart	Poppe	Wagenius
Carlson	Garofalo	Kahn	Masin	Reinert	Ward
Champion	Gottwalt	Kalin	McFarlane	Rosenthal	Welti
Clark	Greiling	Kath	McNamara	Rukavina	Winkler
Cornish	Gunther	Kelly	Morgan	Ruud	Zellers
Davids	Hackbarth	Kiffmeyer	Morrow	Sailer	Spk. Kelliher
Davnie	Hamilton	Knuth	Mullery	Sanders	
Dean	Hansen	Koenen	Murdock	Scalze	
Demmer	Hausman	Kohls	Murphy, E.	Scott	
Dettmer	Haws	Laine	Murphy, M.	Seifert	

Those who voted in the negative were:

Anzelc	Benson	Slocum	Sterner	Tillberry	Westrom
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The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

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

S. F. No. 1477.

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. 1477

A bill for an act relating to construction codes; providing a limited exemption.

May 15, 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. 1477 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. 1477 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **LIMITED EXEMPTION FROM STATE BUILDING CODE; REDWOOD COUNTY.**

(a) Notwithstanding any law to the contrary, an eligible structure described in paragraph (c) shall be exempted from compliance with the following automatic sprinkler system provisions:

(1) the sprinkler system provision of the 2006 edition of the International Building Code, section 903.2.1.2, as adopted by the State Building Code; and

(2) the sprinkler system provision of the 2006 edition of the International Fire Code, section 903.2.1.2, as adopted by the State Fire Code.

(b) An eligible structure described in paragraph (c) that is exempt from and does not comply with the automatic sprinkler system provisions described in paragraph (a) shall comply with the following requirements:

(1) the structure must have at least five permanently installed exit doors;

(2) the structure must be equipped with at least two fire extinguishers; and

(3) the structure must be equipped with at least two smoke detectors.

(c) An eligible structure is one that:

(1) is located in Redwood County and is on the property known as the Gilfillan Estate;

(2) is owned by a historical society formed in 1949;

(3) is currently less than 2,800 square feet in total area with an occupant load of fewer than 200 occupants, and, after expansion and renovation, will be less than 7,000 square feet in total area with an occupant load of fewer than 400 occupants;

(4) has use and occupancy classification codes of "A-2" and "B" under the 2006 edition of the International Building Code, as adopted by the State Building Code; and

(5) was built in 1998.

(d) For purposes of certification of plans pursuant to Minnesota Statutes, section 326.03, subdivision 1, and Minnesota Rules, chapters 1800 and 1805, if an architecture plan of a structure otherwise complies with applicable laws, ordinances, and building codes relating to design, any plan relating to a structure described in paragraph (c) that does not include plans for an automatic sprinkler system exempted in paragraph (a) shall be deemed to comply with applicable laws, ordinances, and building codes relating to design.

(e) The exemption provided in this section expires July 1, 2019.

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

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

Senate Conferees: DENNIS FREDERICKSON, GARY KUBLY and JIM VICKERMAN.

House Conferees: MARTY SEIFERT, AL JUHNKE and LYLE KOENEN.

Seifert moved that the report of the Conference Committee on S. F. No. 1477 be adopted and that the bill be repassed as amended by the Conference Committee.

Mahoney moved that the House refuse to adopt the Conference Committee report on S. F. No. 1477, and that the bill be returned to the Senate and to the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Mahoney motion and the roll was called. There were 33 yeas and 97 nays as follows:

Those who voted in the affirmative were:

Atkins	Gardner	Kahn	Mahoney	Ruud	Tillberry
Benson	Hausman	Knuth	Mariani	Slawik	Wagenius
Bly	Hayden	Lenczewski	Masin	Slocum	Winkler
Champion	Hortman	Lesch	Mullery	Sterner	
Dittrich	Huntley	Liebling	Murphy, E.	Thao	
Fritz	Johnson	Loeffler	Nelson	Thissen	

Those who voted in the negative were:

Abeler	Brown	Detmer	Emmer	Hamilton	Howes
Anderson, B.	Buesgens	Dill	Falk	Haws	Jackson
Anderson, P.	Bunn	Doepke	Faust	Hilstrom	Juhnke
Anderson, S.	Carlson	Doty	Garofalo	Hilty	Kalin
Anzelc	Cornish	Downey	Gottwalt	Holberg	Kath
Beard	Dauids	Drazkowski	Greiling	Hoppe	Kelly
Bigham	Dean	Eastlund	Gunther	Hornstein	Kiffmeyer
Brod	Demmer	Eken	Hackbarth	Hosch	Koenen

Kohls	McFarlane	Obermueller	Reinert	Severson	Welti
Laine	McNamara	Olin	Rosenthal	Shimanski	Westrom
Lanning	Morgan	Otremba	Rukavina	Simon	Zellers
Lieder	Morrow	Paymar	Sailer	Smith	Spk. Kelliher
Lillie	Murdock	Pelowski	Sanders	Solberg	
Loon	Murphy, M.	Peppin	Scalze	Swails	
Mack	Newton	Persell	Scott	Torkelson	
Magnus	Nornes	Peterson	Seifert	Urdahl	
Marquart	Norton	Poppe	Sertich	Ward	

The motion did not prevail.

The question recurred on the Seifert motion that the report of the Conference Committee on S. F. No. 1477 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1477, A bill for an act relating to construction codes; providing a limited exemption.

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

The question was taken on the repassage of the bill and the roll was called. There were 107 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hamilton	Lanning	Norton	Seifert
Anderson, B.	Dettmer	Hansen	Lenczewski	Obermueller	Sertich
Anderson, P.	Dill	Haws	Lesch	Olin	Severson
Anderson, S.	Dittrich	Hilstrom	Lieder	Otremba	Shimanski
Anzelc	Doepke	Hilty	Lillie	Paymar	Simon
Beard	Doty	Holberg	Loon	Pelowski	Slawik
Bigham	Downey	Hoppe	Mack	Peppin	Smith
Brod	Drazkowski	Hornstein	Magnus	Persell	Solberg
Brown	Eastlund	Hosch	Marquart	Peterson	Swails
Brynaert	Eken	Howes	McFarlane	Poppe	Thissen
Buesgens	Emmer	Jackson	McNamara	Reinert	Torkelson
Bunn	Falk	Juhnke	Morgan	Rosenthal	Urdahl
Carlson	Faust	Kath	Morrow	Rukavina	Ward
Champion	Garofalo	Kelly	Murdock	Ruud	Welti
Clark	Gottwalt	Kiffmeyer	Murphy, E.	Sailer	Westrom
Cornish	Greiling	Koenen	Murphy, M.	Sanders	Zellers
Davids	Gunther	Kohls	Newton	Scalze	Spk. Kelliher
Dean	Hackbarth	Laine	Nornes	Scott	

Those who voted in the negative were:

Atkins	Hausman	Kahn	Mahoney	Slocum	Winkler
Benson	Hayden	Kalin	Mariani	Sterner	
Bly	Hortman	Knuth	Masin	Thao	
Fritz	Huntley	Liebling	Mullery	Tillberry	
Gardner	Johnson	Loeffler	Nelson	Wagenius	

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

Madam Speaker:

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

S. F. No. 1447.

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. 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; 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; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1.

May 16, 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. 1447 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. 1447 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

DATA PRACTICES

Section 1. Minnesota Statutes 2008, section 13.43, is amended by adding a subdivision to read:

Subd. 17. **Continuity of operations.** Personal home contact information may be used to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of operation of a government entity. An employee's personal home contact information may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation of either government entity.

Sec. 2. Minnesota Statutes 2008, section 13.43, is amended by adding a subdivision to read:

Subd. 18. **Private personnel data.** Private personnel data of state employees must be disclosed to the Department of Administration for the purpose of administration of the workers' compensation program as provided in chapter 176.

Sec. 3. Minnesota Statutes 2008, section 13.46, subdivision 3, is amended to read:

Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services ~~and data on~~ licensees, ~~and applicants~~, that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute and relating to the enforcement of rules or law, is confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

- (1) pursuant to section 13.05;
- (2) pursuant to statute or valid court order;
- (3) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or
- (4) to provide notices required or permitted by statute.

The data referred to in this subdivision shall be classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

(b) Notwithstanding any other provision in law, the commissioner of human services shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental health and developmental disabilities upon the request of the ombudsman.

Sec. 4. Minnesota Statutes 2008, section 13.46, subdivision 4, is amended to read:

Subd. 4. **Licensing data.** (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on applicants, license holders, and former licensees are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child care and child development, type of dwelling, name and relationship of other family members, previous license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician. When a correction order ~~or~~, an order to forfeit a fine, an order of license suspension, an order of temporary immediate suspension, an order of license revocation, an order of license denial, or an order of conditional license has been issued, ~~a license is suspended, immediately suspended, revoked, denied, or made~~

~~conditional~~, or a complaint is resolved, the following data on current and former licensees and applicants are public: the substance and investigative findings of the licensing or maltreatment complaint, licensing violation, or substantiated maltreatment; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, temporary immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; whether a fine has been paid; and the status of any appeal of these actions. If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that the license holder or applicant is responsible for maltreatment or is disqualified under chapter 245C, the identity of the license holder or applicant as the individual responsible for maltreatment or as the disqualified individual is public data at the time of the issuance of the licensing sanction or denial.

(2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, when any person subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator of maltreatment is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 256.045; 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or facility has not timely exercised appeal rights under these sections, except as provided under clause (1).

(3) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(4) For applicants who are denied a license, the following data are public: the name and address of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of denial, and the status of any appeal of the denial.

(5) The following data on persons subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; the nature of any disqualification for which a variance was granted under sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person subject to a background study under section 245C.03, subdivision 1, has successfully passed a background study. If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that an individual subject to disqualification under chapter 245C is disqualified, the disqualification as a basis for the licensing sanction or denial is public data. As specified in clause (1), if the disqualified individual is the license holder or applicant, the identity of the license holder or applicant is public data. If the disqualified individual is an individual other than the license holder or applicant, the identity of the disqualified individual shall remain private data.

(6) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(7) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters of complaints or alleged violations of licensing standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment under sections 626.556 and 626.557, are confidential data and may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

ARTICLE 2

LICENSING

Section 1. Minnesota Statutes 2008, section 147C.01, is amended to read:

147C.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Advisory council.** "Advisory council" means the Respiratory Care ~~Practitioner~~ Advisory Council established under section 147C.35.

Subd. 3. **Approved education program.** "Approved education program" means a university, college, or other postsecondary education program leading to eligibility for registry or certification in respiratory care, that, at the time the student completes the program, is accredited by a national accrediting organization approved by the board.

Subd. 4. **Board.** "Board" means the Board of Medical Practice or its designee.

Subd. 5. **Contact hour.** "Contact hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subd. 6. **Credential.** "Credential" means a license, ~~permit, certification, registration,~~ or other evidence of qualification or authorization to engage in respiratory care practice in this state or any other state.

Subd. 7. **Credentialing examination.** "Credentialing examination" means an examination administered by the National Board for Respiratory Care ~~or other national testing organization approved by the board, its successor organization, or the Canadian Society for Respiratory Care~~ for credentialing as a ~~certified respiratory therapy technician, registered~~ respiratory therapist, or other title indicating an entry or advanced level respiratory care practitioner.

Subd. 7a. **Equipment maintenance.** "Equipment maintenance" includes, but is not limited to, downloading and subsequent reporting of stored compliance and physiological data, adjustments to respiratory equipment based on compliance downloads, protocols, and provider orders specific to noninvasive continuous positive airway pressure, bi-level devices.

Subd. 8. **Health care facility.** "Health care facility" means a hospital as defined in section 144.50, subdivision 2, a medical facility as defined in section 144.561, subdivision 1, paragraph (b), or a nursing home as defined in section 144A.01, subdivision 5, a long-term acute care facility, a subacute care facility, an outpatient clinic, a physician's office, a rehabilitation facility, or a hospice.

Subd. 9. **Qualified medical direction.** "Qualified medical direction" means direction from a licensed physician who is on the staff or is a consultant of a health care facility or home care agency or home medical equipment provider and who has a special interest in and knowledge of the diagnosis and treatment of deficiencies, abnormalities, and diseases of the cardiopulmonary system.

Subd. 9a. **Patient instruction.** "Patient instruction" includes, but is not limited to, patient education on the care, use, maintenance of respiratory equipment, patient interface fittings, and adjustments.

Subd. 10. **Respiratory care.** "Respiratory care" means the provision of services described under section 147C.05 for the assessment, treatment, education, management, evaluation, and care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system, under the ~~guidance of qualified medical direction~~

supervision of a physician and pursuant to a referral, or verbal, written, or telecommunicated order from a physician who has medical responsibility for the patient, nurse practitioner, or physician assistant. ~~It~~ Respiratory care includes, but is not limited to, education pertaining to health promotion, and disease prevention and management, patient care, and treatment.

Sec. 2. Minnesota Statutes 2008, section 147C.05, is amended to read:

147C.05 SCOPE OF PRACTICE.

(a) The practice of respiratory care by a ~~registered licensed~~ registered licensed respiratory ~~care practitioner~~ therapist includes, but is not limited to, the following services:

(1) providing and monitoring therapeutic administration of medical gases, aerosols, humidification, and pharmacological agents related to respiratory care procedures, but not including administration of general anesthesia;

(2) carrying out therapeutic application and monitoring of mechanical ventilatory support;

(3) providing cardiopulmonary resuscitation and maintenance of natural airways and insertion and maintenance of artificial airways;

(4) assessing and monitoring signs, symptoms, and general behavior relating to, and general physical response to, respiratory care treatment or evaluation for treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics;

(5) obtaining physiological specimens and interpreting physiological data including:

(i) analyzing arterial and venous blood gases;

(ii) assessing respiratory secretions;

(iii) measuring ventilatory volumes, pressures, and flows;

(iv) testing pulmonary function;

(v) testing and studying the cardiopulmonary system; and

(vi) diagnostic and therapeutic testing of breathing patterns related to sleep disorders;

(6) assisting hemodynamic monitoring and support of the cardiopulmonary system;

(7) assessing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols, or changes in patient response to respiratory care treatment;

(8) providing cardiopulmonary rehabilitation including respiratory-care related educational components, postural drainage, chest physiotherapy, breathing exercises, aerosolized administration of medications, and equipment use and maintenance;

(9) instructing patients and their families in techniques for the prevention, alleviation, and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary system; and

(10) transcribing and implementing verbal, written, or telecommunicated orders from a physician, nurse practitioner, or physician assistant orders for respiratory care services.

(b) ~~Patient service by a practitioner must be limited to:~~

~~(1) services within the training and experience of the practitioner; and~~

~~(2) services within the parameters of the laws, rules, and standards of the facilities in which the respiratory care practitioner practices.~~

~~(c) Respiratory care services provided by a registered respiratory care practitioner, whether delivered in a health care facility or the patient's residence, must not be provided except upon referral from a physician.~~

(b) This section does not prohibit a respiratory therapist from performing advances in the art and techniques of respiratory care learned through formal or specialized training as approved by the Respiratory Care Advisory Council.

~~(c)~~ (c) This section does not prohibit an individual licensed or ~~registered~~ credentialed as a respiratory therapist in another state or country from providing respiratory care in an emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of an ambulance treatment team.

Sec. 3. Minnesota Statutes 2008, section 147C.10, is amended to read:

147C.10 UNLICENSED PRACTICE PROHIBITED; PROTECTED TITLES AND RESTRICTIONS ON USE.

Subdivision 1. **Protected titles.** ~~No individual may~~ A person who does not hold a license or temporary permit under this chapter as a respiratory therapist or whose license or permit has lapsed, been suspended, or revoked may not use the title "Minnesota-registered licensed respiratory care practitioner therapist," "registered licensed respiratory care practitioner therapist," "respiratory care practitioner," "respiratory therapist," "respiratory therapy (or care) technician," "inhalation therapist," or "inhalation therapy technician," or use, in connection with the individual's name, the letters "RCP," "RT" or "LRT" or any other titles, words, letters, abbreviations, or insignia indicating or implying that the individual is eligible for ~~registration licensure~~ registration licensure by the state as a respiratory care practitioner therapist unless the individual has been ~~registered licensed~~ registered licensed as a respiratory care practitioner therapist according to this chapter.

Subd. 1a. **Unlicensed practice prohibited.** No person shall practice respiratory care unless the person is licensed as a respiratory therapist under this chapter except as otherwise provided under this chapter.

Subd. 2. **Other health care practitioners.** ~~(a) Nonphysician individuals practicing in a health care occupation or profession are not restricted in the provision of services included in section 147C.05, as long as they do not hold themselves out as respiratory care practitioners by or through the use of the titles provided in subdivision 1 in association with provision of these services. Nothing in this chapter shall prohibit the practice of any profession or occupation licensed or registered by the state by any person duly licensed or registered to practice the profession or occupation or to perform any act that falls within the scope of practice of the profession or occupation.~~

~~(b) Physician practitioners are exempt from this chapter.~~

~~(c)~~ (e) Nothing in this chapter shall be construed to require ~~registration of a respiratory care license~~ for:

(1) a ~~respiratory care practitioner~~ student enrolled in a respiratory therapy or polysomnography technology education program accredited by the Commission on Accreditation of Allied Health Education Programs, its successor organization, or another nationally recognized accrediting organization approved by the board; and

(2) a respiratory ~~care practitioner employed in the service of the federal government~~ therapist as a member of the United States armed forces while performing duties incident to that employment duty;

(3) an individual employed by a durable medical equipment provider or a home medical equipment provider who delivers, sets up, or maintains respiratory care equipment, but does not perform assessment, education, or evaluation of the patient;

(4) self-care by a patient or gratuitous care by a friend or relative who does not purport to be a licensed respiratory therapist; or

(5) an individual employed in a sleep lab or center as a polysomnographic technologist under the supervision of a licensed physician.

Subd. 3. **Penalty.** A person who violates ~~subdivision 1~~ this section is guilty of a gross misdemeanor.

Subd. 4. **Identification of ~~registered licensed~~ practitioners.** Respiratory ~~care practitioners registered therapists licensed~~ in Minnesota shall wear name tags that identify them as respiratory ~~care practitioners~~ therapists while in a professional setting. If not written in full, this must be designated as ~~RCP~~ "RT" or "LRT". A student attending ~~a an accredited respiratory therapy training education program or a tutorial intern program~~ must be identified as a student respiratory ~~care practitioner~~ therapist. This abbreviated designation is Student ~~RCP RT~~. Unregulated individuals who work in an assisting respiratory role under the supervision of respiratory ~~care practitioners~~ therapists must be identified as respiratory ~~care~~ therapy assistants or aides.

Sec. 4. Minnesota Statutes 2008, section 147C.15, is amended to read:

147C.15 ~~REGISTRATION LICENSURE~~ REQUIREMENTS.

Subdivision 1. **General requirements for ~~registration licensure~~.** To be eligible for ~~registration a license~~, an applicant, with the exception of those seeking ~~registration licensure~~ by reciprocity under subdivision 2, must:

(1) submit a completed application on forms provided by the board along with all fees required under section 147C.40 that includes:

(i) the applicant's name, Social Security number, home address, e-mail address, and telephone number, and business address and telephone number;

(ii) the name and location of the respiratory ~~care~~ therapy education program the applicant completed;

(iii) a list of degrees received from educational institutions;

(iv) a description of the applicant's professional training beyond the first degree received;

(v) the applicant's work history for the five years preceding the application, including the average number of hours worked per week;

(vi) a list of registrations, certifications, and licenses held in other jurisdictions;

(vii) a description of any other jurisdiction's refusal to credential the applicant;

- (viii) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction; and
- (ix) any history of drug or alcohol abuse, and any misdemeanor or felony conviction;
- (2) submit a certificate of completion from an approved education program;
- (3) achieve a qualifying score on a credentialing examination within five years prior to application for registration;
- (4) submit a verified copy of a valid and current credential, issued by the National Board for Respiratory Care or other board-approved national organization, as a certified respiratory ~~therapy technician~~ therapist, registered respiratory therapist, or other entry or advanced level respiratory ~~care practitioner~~ therapist designation;
- (5) submit additional information as requested by the board, including providing any additional information necessary to ensure that the applicant is able to practice with reasonable skill and safety to the public;
- (6) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief; and
- (7) sign a waiver authorizing the board to obtain access to the applicant's records in this or any other state in which the applicant has completed an approved education program or engaged in the practice of respiratory ~~care~~ therapy.

Subd. 2. **Registration Licensure by reciprocity.** To be eligible for ~~registration~~ licensure by reciprocity, the applicant must be credentialed by the National Board for Respiratory Care or other board-approved organization and have worked at least eight weeks of the previous five years as a respiratory ~~care practitioner~~ therapist and must:

- (1) submit the application materials and fees as required by subdivision 1, clauses (1), (4), (5), (6), and (7);
- (2) provide a verified copy from the appropriate government body of a current and unrestricted credential or license for the practice of respiratory ~~care~~ therapy in another jurisdiction that has initial credentialing requirements equivalent to or higher than the requirements in subdivision 1; and
- (3) provide letters of verification from the appropriate government body in each jurisdiction in which the applicant holds a credential or license. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Subd. 3. **Temporary permit.** The board may issue a temporary permit to practice as a respiratory ~~care practitioner~~ therapist to an applicant eligible for ~~registration~~ licensure under this section if the application for ~~registration~~ licensure is complete, all applicable requirements in this section have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the respiratory ~~care practitioner's~~ therapist's application for ~~registration~~ licensure.

Subd. 4. **Temporary registration.** ~~The board may issue temporary registration as a respiratory care practitioner for a period of one year to an applicant for registration under this section if the application for registration is complete, all applicable requirements have been met with exception of completion of a credentialing examination, and a nonrefundable fee set by the board has been paid. A respiratory care practitioner with temporary registration may qualify for full registration status upon submission of verified documentation that the respiratory care practitioner has achieved a qualifying score on a credentialing examination within one year after receiving temporary registration status. Temporary registration may not be renewed.~~

~~Subd. 5. **Practice limitations with temporary registration.** A respiratory care practitioner with temporary registration is limited to working under the direct supervision of a registered respiratory care practitioner or physician able to provide qualified medical direction. The respiratory care practitioner or physician must be present in the health care facility or readily available by telecommunication at the time the respiratory care services are being provided. A registered respiratory care practitioner may supervise no more than two respiratory care practitioners with temporary registration status.~~

Subd. 6. **Registration License expiration.** Registrations Licenses issued under this chapter expire annually.

Subd. 7. **Renewal.** (a) To be eligible for registration license renewal a registrant licensee must:

(1) annually, or as determined by the board, complete a renewal application on a form provided by the board;

(2) submit the renewal fee;

(3) provide evidence every two years of a total of 24 hours of continuing education approved by the board as described in section 147C.25; and

(4) submit any additional information requested by the board to clarify information presented in the renewal application. The information must be submitted within 30 days after the board's request, or the renewal request is nullified.

(b) Applicants for renewal who have not practiced the equivalent of eight full weeks during the past five years must achieve a passing score on retaking the credentialing examination, ~~or complete no less than eight weeks of advisory council approved supervised clinical experience having a broad base of treatment modalities and patient care.~~

Subd. 8. **Change of address.** A registrant licensee who changes addresses must inform the board within 30 days, in writing, of the change of address. All notices or other correspondence mailed to or served on a registrant licensee by the board at the registrant's licensee's address on file with the board shall be considered as having been received by the registrant licensee.

Subd. 9. **Registration License renewal notice.** At least 30 days before the registration license renewal date, the board shall send out a renewal notice to the last known address of the registrant licensee on file. The notice must include a renewal application and a notice of fees required for renewal. It must also inform the registrant licensee that registration the license will expire without further action by the board if an application for registration license renewal is not received before the deadline for renewal. The registrant's licensee's failure to receive this notice shall not relieve the registrant licensee of the obligation to meet the deadline and other requirements for registration license renewal. Failure to receive this notice is not grounds for challenging expiration of registered licensure status.

Subd. 10. **Renewal deadline.** The renewal application and fee must be postmarked on or before July 1 of the year of renewal or as determined by the board. If the postmark is illegible, the application shall be considered timely if received by the third working day after the deadline.

~~Subd. 11. **Inactive status and return to active status.** (a) A registration may be placed in inactive status upon application to the board by the registrant and upon payment of an inactive status fee.~~

~~(b) Registrants seeking restoration to active from inactive status must pay the current renewal fees and all unpaid back inactive fees. They must meet the criteria for renewal specified in subdivision 7, including continuing education hours equivalent to one hour for each month of inactive status, prior to submitting an application to regain registered status. If the inactive status extends beyond five years, a qualifying score on a credentialing examination, or completion of an advisory council approved eight week supervised clinical training experience is required. If the registrant intends to regain active registration by means of eight weeks of advisory council approved clinical training experience, the registrant shall be granted temporary registration for a period of no longer than six months.~~

Subd. 12. **Registration Licensure following lapse of registration licensed status for two years or less.** For any individual whose ~~registration status~~ license has lapsed for two years or less, to regain ~~registration status~~ a license, the individual must:

- (1) apply for ~~registration~~ license renewal according to subdivision 7;
- (2) document compliance with the continuing education requirements of section 147C.25 since the ~~registrant's~~ licensee's initial ~~registration~~ licensure or last renewal; and
- (3) submit the fees required under section 147C.40 for the period not ~~registered~~ licensed, including the fee for late renewal.

Subd. 13. **Cancellation due to nonrenewal.** The board shall not renew, reissue, reinstate, or restore a ~~registration~~ license that has lapsed and has not been renewed within two annual ~~registration~~ renewal cycles ~~starting~~ July 1997. A ~~registrant~~ licensee whose ~~registration~~ license is canceled for nonrenewal must obtain a new ~~registration~~ license by applying for ~~registration~~ licensure and fulfilling all requirements then in existence for initial ~~registration~~ licensure as a respiratory ~~care practitioner~~ therapist.

Subd. 14. **Cancellation of registration license in good standing.** (a) A ~~registrant~~ licensee holding an active ~~registration~~ license as a respiratory ~~care practitioner~~ therapist in the state may, upon approval of the board, be granted ~~registration~~ license cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the ~~registrant~~ licensee. Such action by the board shall be reported as a cancellation of ~~registration~~ a license in good standing.

(b) A ~~registrant~~ licensee who receives board approval for ~~registration~~ license cancellation is not entitled to a refund of any ~~registration~~ licensure fees paid for the ~~registration~~ license year in which cancellation of the ~~registration~~ license occurred.

(c) To obtain ~~registration~~ a license after cancellation, a ~~registrant~~ licensee must obtain a new ~~registration~~ license by applying for ~~registration~~ licensure and fulfilling the requirements then in existence for obtaining initial ~~registration~~ licensure as a respiratory ~~care practitioner~~ therapist.

Sec. 5. Minnesota Statutes 2008, section 147C.20, is amended to read:

147C.20 BOARD ACTION ON APPLICATIONS FOR REGISTRATION LICENSURE.

- (a) The board shall act on each application for ~~registration~~ licensure according to paragraphs (b) to (d).
- (b) The board shall determine if the applicant meets the requirements for ~~registration~~ licensure under section 147C.15. The board or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.
- (c) The board shall notify each applicant in writing of action taken on the application, the grounds for denying ~~registration~~ licensure if ~~registration~~ licensure is denied, and the applicant's right to review under paragraph (d).
- (d) Applicants denied ~~registration~~ licensure may make a written request to the board, within 30 days of the board's notice, to appear before the advisory council or its designee and for the advisory council to review the board's decision to deny the applicant's ~~registration~~ licensure. After reviewing the denial, the advisory council shall make a recommendation to the board as to whether the denial shall be affirmed. Each applicant is allowed only one request for review per yearly ~~registration~~ licensure period.

Sec. 6. Minnesota Statutes 2008, section 147C.25, is amended to read:

147C.25 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Number of required contact hours.** Two years after the date of initial ~~registration licensure~~, and every two years thereafter, a ~~registrant licensee~~ applying for ~~registration license~~ renewal must complete a minimum of 24 contact hours of board-approved continuing education in the two years preceding ~~registration license~~ renewal and attest to completion of continuing education requirements by reporting to the board.

Subd. 2. **Approved programs.** The board shall approve continuing education programs that have been approved for continuing education credit by the American Association of Respiratory Care or the Minnesota Society for Respiratory Care or their successor organizations. The board shall also approve programs substantially related to respiratory ~~care~~ therapy that are sponsored by an accredited university or college, medical school, state or national medical association, national medical specialty society, or that are approved for continuing education credit by the Minnesota Board of Nursing.

Subd. 3. **Approval of continuing education programs.** The board shall also approve continuing education programs that do not meet the requirements of subdivision 2 but that meet the following criteria:

- (1) the program content directly relates to the practice of respiratory ~~care~~ therapy;
- (2) each member of the program faculty is knowledgeable in the subject matter as demonstrated by a degree from an accredited education program, verifiable experience in the field of respiratory ~~care~~ therapy, special training in the subject matter, or experience teaching in the subject area;
- (3) the program lasts at least one contact hour;
- (4) there are specific, measurable, written objectives, consistent with the program, describing the expected outcomes for the participants; and
- (5) the program sponsor has a mechanism to verify participation and maintains attendance records for three years.

Subd. 4. **Hospital, health care facility, or medical company in-services.** Hospital, health care facility, or medical company in-service programs may qualify for continuing education credits provided they meet the requirements of this section.

Subd. 5. **Accumulation of contact hours.** A ~~registrant licensee~~ may not apply contact hours acquired in one two-year reporting period to a future continuing education reporting period.

Subd. 6. **Verification of continuing education credits.** The board shall periodically select a random sample of ~~registrants licensees~~ and require those ~~registrants licensees~~ to supply the board with evidence of having completed the continuing education to which they attested. Documentation may come directly from the ~~registrant licensee~~ or from state or national organizations that maintain continuing education records.

Subd. 7. **Restriction on continuing education topics.** A ~~registrant licensee~~ may apply no more than a combined total of eight hours of continuing education in the areas of management, risk management, personal growth, and educational techniques to a two-year reporting period.

Subd. 8. **Credit for credentialing examination.** A ~~registrant licensee~~ may fulfill the continuing education requirements for a two-year reporting period by achieving a qualifying score on one of the credentialing examinations or a specialty credentialing examination of the National Board for Respiratory Care or another board-

approved testing organization. A ~~registrant~~ licensee may achieve 12 hours of continuing education credit by completing a National Board for Respiratory Care or other board-approved testing organization's specialty examination.

Sec. 7. Minnesota Statutes 2008, section 147C.30, is amended to read:

147C.30 DISCIPLINE; REPORTING.

For purposes of this chapter, ~~registered licensed~~ respiratory ~~care practitioners~~ therapists and applicants are subject to the provisions of sections 147.091 to 147.162.

Sec. 8. Minnesota Statutes 2008, section 147C.35, is amended to read:

147C.35 RESPIRATORY CARE ~~PRACTITIONER~~ ADVISORY COUNCIL.

Subdivision 1. **Membership.** The board shall appoint a seven-member Respiratory Care ~~Practitioner~~ Advisory Council consisting of two public members as defined in section 214.02, three ~~registered licensed~~ respiratory ~~care practitioners~~ therapists, and two licensed physicians with expertise in respiratory care.

Subd. 2. **Organization.** The advisory council shall be organized and administered under section 15.059.

Subd. 3. **Duties.** The advisory council shall:

- (1) advise the board regarding standards for respiratory ~~care practitioners~~ therapists;
- (2) provide for distribution of information regarding respiratory ~~care practitioner~~ therapy standards;
- (3) advise the board on enforcement of sections 147.091 to 147.162;
- (4) review applications and recommend granting or denying ~~registration licensure~~ or ~~registration license~~ renewal;
- (5) advise the board on issues related to receiving and investigating complaints, conducting hearings, and imposing disciplinary action in relation to complaints against respiratory ~~care practitioners~~ therapists;
- (6) advise the board regarding approval of continuing education programs using the criteria in section 147C.25, subdivision 3; and
- (7) perform other duties authorized for advisory councils by chapter 214, as directed by the board.

Sec. 9. Minnesota Statutes 2008, section 147C.40, is amended to read:

147C.40 FEES.

Subdivision 1. **Fees.** The board shall adopt rules setting:

- (1) ~~registration~~ licensure fees;
- (2) renewal fees;
- (3) late fees;
- (4) inactive status fees; and

(5) fees for temporary permits;~~and~~

~~(6) fees for temporary registration.~~

Subd. 2. **Proration of fees.** The board may prorate the initial annual registration license fee. All ~~registrants~~ licensees are required to pay the full fee upon registration license renewal.

Subd. 3. **Penalty fee for late renewals.** An application for registration license renewal submitted after the deadline must be accompanied by a late fee in addition to the required fees.

Subd. 4. **Nonrefundable fees.** All of the fees in subdivision 1 are nonrefundable.

Sec. 10. Minnesota Statutes 2008, section 157.22, is amended to read:

157.22 EXEMPTIONS.

This chapter shall not be construed to apply to:

- (1) interstate carriers under the supervision of the United States Department of Health and Human Services;
- (2) any building constructed and primarily used for religious worship;
- (3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;
- (4) any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;
- (5) family day care homes and group family day care homes governed by sections 245A.01 to 245A.16;
- (6) nonprofit senior citizen centers for the sale of home-baked goods;
- (7) fraternal or patriotic organizations that are tax exempt under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of 1986, or organizations related to or affiliated with such fraternal or patriotic organizations. Such organizations may organize events at which home-prepared food is donated by organization members for sale at the events, provided:
 - (i) the event is not a circus, carnival, or fair;
 - (ii) the organization controls the admission of persons to the event, the event agenda, or both; and
 - (iii) the organization's licensed kitchen is not used in any manner for the event;
- (8) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means. Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments other than schools cannot be sponsors of potluck events. A school may sponsor and hold potluck events in areas of the school other than the school's kitchen, provided that the school's kitchen is not used in any

manner for the potluck event. For purposes of this clause, "school" means a public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization at which a child is provided with instruction in compliance with sections 120A.22 and 120A.24. Potluck event food shall not be brought into a licensed food establishment kitchen; ~~and~~

(9) a home school in which a child is provided instruction at home; and

(10) 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. 11. 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. 12. 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. 13. 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. 14. 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. 15. 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. 16. 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 that has not been set aside under section 245C.22 and no variance has been granted;

(4) has an individual living in the household who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted; or

(5) is associated with an individual who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to children or vulnerable adults, and who has a disqualification that 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. 17. 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. 18. 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. 19. 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. 20. 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. 21. 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. 22. **[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.65;
- (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 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.

Sec. 23. 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 that discontinued providing licensed direct contact services for 45 or more consecutive days begins to provide direct contact licensed services again.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files.

Sec. 24. Minnesota Statutes 2008, section 245C.07, is amended to read:

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) Except for child foster care and adoption agencies, 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.

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

Sec. 25. Minnesota Statutes 2008, section 245C.08, is amended to read:

245C.08 BACKGROUND STUDY; COMMISSIONER REVIEWS.

Subdivision 1. **Background studies conducted by ~~commissioner~~ Department of Human Services.** (a) For a background study conducted by the ~~commissioner~~ Department of Human Services, the commissioner shall review:

(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs, and from findings of maltreatment of minors as indicated through the social service information system;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, ~~clauses (2), (5), and (6)~~ when there is reasonable cause;

(4) information from the Bureau of Criminal Apprehension;

(5) except as provided in clause (6), information from the national crime information system when the commissioner has reasonable cause as defined under section 245C.05, subdivision 5; and

(6) for a background study related to a child foster care application for licensure or adoptions, the commissioner shall also review:

(i) information from the child abuse and neglect registry for any state in which the background study subject has resided for the past five years; and

(ii) information from national crime information databases, when the background study ~~object~~ subject is 18 years of age or older.

(b) Notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

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);~~

(i) individuals listed in section 245C.03, subdivision 1, who are ages 13 through 23 living in the household where the licensed services will be provided; and

(ii) any other individual listed under section 245C.03, subdivision 1, when there is reasonable cause; 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.

Subd. 3. **Arrest and investigative information.** (a) For any background study completed under this section, if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual, the commissioner also may review arrest and investigative information from:

(1) the Bureau of Criminal Apprehension;

(2) the commissioner of health;

(3) a county attorney;

(4) a county sheriff;

(5) a county agency;

(6) a local chief of police;

(7) other states;

(8) the courts;

(9) the Federal Bureau of Investigation;

(10) the National Criminal Records Repository; and

(11) criminal records from other states.

(b) The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background study.

Subd. 4. **Juvenile court records.** (a) For a background study conducted by the Department of Human Services, the commissioner shall review records from the juvenile courts for an individual studied under section 245C.03, subdivision 1, ~~clauses (2) and (5) when the commissioner has reasonable cause.~~

(b) ~~For individuals studied under section 245C.03, subdivision 1, clauses (1), (3), (4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner shall review records from the juvenile courts, a background study conducted by a county agency, the commissioner shall review records from the juvenile courts for individuals listed in section 245C.03, subdivision 1, who are ages 13 through 23 living in the household where the licensed services will be provided. The commissioner shall also review records from juvenile courts for any other individual listed under section 245C.03, subdivision 1,~~ when the commissioner has reasonable cause.

(c) The juvenile courts shall help with the study by giving the commissioner existing juvenile court records relating to delinquency proceedings held on individuals described in section 245C.03, subdivision 1, ~~clauses (2), (5), and (6), relating to delinquency proceedings held within either the five years immediately preceding the background study or the five years immediately preceding the individual's 18th birthday, whichever time period is longer when requested pursuant to this subdivision.~~

(d) For purposes of this chapter, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

(e) Juvenile courts shall provide orders of involuntary and voluntary termination of parental rights under section 260C.301 to the commissioner upon request for purposes of conducting a background study under this chapter.

Sec. 26. 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. 27. 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.

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

Sec. 28. 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.

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

Sec. 29. 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. 30. 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. 31. Minnesota Statutes 2008, section 245C.22, subdivision 7, is amended to read:

Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set-aside and the individual's disqualifying characteristics are public data if the set-aside was:

(1) for any disqualifying characteristic under section 245C.15, when the set-aside relates to a child care center or a family child care provider licensed under chapter 245A; or

(2) for a disqualifying characteristic under section 245C.15, subdivision 2.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are public data, when the variance:

(1) is issued to a child care center or a family child care provider licensed under chapter 245A; or

(2) relates to an individual with a disqualifying characteristic under section 245C.15, subdivision 2.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when:

(1) a disqualification is not set aside and no variance is granted, except as provided under section 13.46, subdivision 4;

(2) the data are not public under paragraph (a) or (b);

(3) the disqualification is rescinded because the information relied upon to disqualify the individual is incorrect; or

(4) the disqualification relates to a license to provide relative child foster care. As used in this clause, "relative" has the meaning given it under section 260C.007, subdivision 27.

(d) Licensed family child care providers and child care centers must provide notices as required under section 245C.301.

(e) Notwithstanding paragraphs (a) and (b), the identity of household members who are the subject of a disqualification related set-aside or variance is not public data if:

(1) the household member resides in the residence where the family child care is provided;

(2) the subject of the set-aside or variance is under the age of 18 years; and

(3) the set-aside or variance only relates to a disqualification under section 245C.15, subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

Sec. 32. 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.

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

Sec. 33. 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).

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

Sec. 34. 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. 35. 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. 36. 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. 37. 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. 38. 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. 39. 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) ~~hereafter~~, 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. 40. 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. 41. 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.

Sec. 42. **[471.709] 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. 43. 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. 44. 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. 45. 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. 46. 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.07 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. 47. Minnesota Statutes 2008, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall destroy data three calendar years after date of receipt.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the

commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead agency; and

(ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) After the assessment or investigation is completed, the name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be destroyed under the following schedule:

- (1) data from reports determined to be false, two years after the finding was made;
- (2) data from reports determined to be inconclusive, four years after the finding was made;
- (3) data from reports determined to be substantiated, seven years after the finding was made; and
- (4) data from reports which were not investigated by a lead agency and for which there is no final disposition, two years from the date of the report.

(e) The commissioners of health and human services shall each annually report to the legislature and the governor on the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. The report shall identify:

- (1) whether and where backlogs of cases result in a failure to conform with statutory time frames;
 - (2) where adequate coverage requires additional appropriations and staffing; and
 - (3) any other trends that affect the safety of vulnerable adults.
- (f) Each lead agency must have a record retention policy.

(g) Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Upon completion of the review, not public data received by the review panel must be returned to the lead agency.

(h) Each lead agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 48. 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. 49. **REPEALER.**

Minnesota Statutes 2008, section 245C.10, subdivision 1, is repealed.

ARTICLE 3

DEPARTMENT OF HUMAN SERVICES LICENSING TECHNICAL

Section 1. Minnesota Statutes 2008, section 245C.03, subdivision 4, is amended to read:

Subd. 4. **Personnel agencies; educational programs; professional services agencies.** The commissioner also may conduct studies on individuals specified in subdivision 1, paragraph (a), clauses (3) and (4), when the studies are initiated by:

(1) personnel pool agencies;

(2) temporary personnel agencies;

(3) educational programs that train individuals by providing direct contact services in licensed programs; and

(4) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

Sec. 2. Minnesota Statutes 2008, section 245C.08, subdivision 1, is amended to read:

Subdivision 1. **Background studies conducted by commissioner of human services.** (a) For a background study conducted by the commissioner, the commissioner shall review:

(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs, and from findings of maltreatment of minors as indicated through the social service information system;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6);

(4) information from the Bureau of Criminal Apprehension;

(5) except as provided in clause (6), information from the national crime information system when the commissioner has reasonable cause as defined under section 245C.05, subdivision 5; and

(6) for a background study related to a child foster care application for licensure or adoptions, the commissioner shall also review:

(i) information from the child abuse and neglect registry for any state in which the background study subject has resided for the past five years; and

(ii) information from national crime information databases, when the background study object is 18 years of age or older.

(b) Notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

Sec. 3. 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, paragraph (a), 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. 4. Minnesota Statutes 2008, section 245C.08, subdivision 4, is amended to read:

Subd. 4. **Juvenile court records.** (a) The commissioner shall review records from the juvenile courts for an individual studied under section 245C.03, subdivision 1, paragraph (a), clauses (2) and (5).

(b) For individuals studied under section 245C.03, subdivision 1, paragraph (a), clauses (1), (3), (4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner shall review records from the juvenile courts when the commissioner has reasonable cause.

(c) The juvenile courts shall help with the study by giving the commissioner existing juvenile court records on individuals described in section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), relating to delinquency proceedings held within either the five years immediately preceding the background study or the five years immediately preceding the individual's 18th birthday, whichever time period is longer.

(d) For purposes of this chapter, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

(e) Juvenile courts shall provide orders of involuntary and voluntary termination of parental rights under section 260C.301 to the commissioner upon request for purposes of conducting a background study under this chapter.

Sec. 5. Minnesota Statutes 2008, section 245C.14, subdivision 2, is amended to read:

Subd. 2. **Disqualification from access.** (a) If an individual who is studied under section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), is disqualified from direct contact under subdivision 1, the commissioner shall also disqualify the individual from access to a person receiving services from the license holder.

(b) No individual who is disqualified following a background study under section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), or as provided elsewhere in statute who is disqualified as a result of this section, may be allowed access to persons served by the program unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that licensed program or entity identified in section 245C.03 as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Sec. 6. Minnesota Statutes 2008, section 299C.61, subdivision 6, is amended to read:

Subd. 6. **Children's service worker.** "Children's service worker" means a person who has, may have, or seeks to have access to a child to whom the children's service provider provides children's services, and who:

(1) is employed by, volunteers with, or seeks to be employed by or volunteer with a children's service provider; ~~or~~

(2) is an independent contractor who provides children's services to a children's service provider; or

(3) owns, operates, or seeks to own or operate a children's service provider.

Sec. 7. Minnesota Statutes 2008, section 299C.62, subdivision 3, is amended to read:

Subd. 3. **Children's service worker rights.** (a) The children's service provider shall notify the children's service worker of the children's service worker's rights under paragraph (b).

(b) A children's service worker who is the subject of a background check request has the following rights:

(1) the right to be informed that a children's service provider will request a background check on the children's service worker:

(i) for purposes of the children's service worker's application to be employed by, volunteer with, be an independent contractor for, or be an owner of a children's service provider or for purposes of continuing as an employee, volunteer, independent contractor, or owner; and

(ii) to determine whether the children's service worker has been convicted of any crime specified in section 299C.61, subdivision 2 or 4;

(2) the right to be informed by the children's service provider of the superintendent's response to the background check and to obtain from the children's service provider a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

(4) the right to challenge the accuracy and completeness of any information contained in the report or record pursuant to section 13.04, subdivision 4;

(5) the right to be informed by the children's service provider if the children's service worker's application to be employed with, volunteer with, be an independent contractor for, or be an owner of a children's service provider, or to continue as an employee, volunteer, independent contractor, or owner, has been denied because of the superintendent's response; and

(6) the right not to be required directly or indirectly to pay the cost of the background check.

Sec. 8. Minnesota Statutes 2008, section 299C.62, subdivision 4, is amended to read:

Subd. 4. **Response of bureau.** The superintendent shall respond to a background check request within a reasonable time after receiving the signed, written document described in subdivision 2. The superintendent shall provide the children's service provider with a copy of the applicant's criminal record or a statement that the applicant is not the subject of a criminal history record at the bureau. It is the responsibility of the service provider to determine if the applicant qualifies as an employee ~~or~~ volunteer, or independent contractor under this section."

Delete the title and insert:

"A bill for an act relating to human services; making changes to licensing provisions; data practices; modifying license disqualifications and background study requirements; requiring licensure of respiratory therapists; changing SIDS reduction provisions; providing for alternative inspection for day training and habilitation programs; exempting certain massage therapists from licensure; amending Minnesota Statutes 2008, sections 13.43, by adding subdivisions; 13.46, subdivisions 3, 4; 147C.01; 147C.05; 147C.10; 147C.15; 147C.20; 147C.25; 147C.30; 147C.35; 147C.40; 157.22; 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.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; 256.045, subdivisions 3, 3b; 256B.0943, subdivisions 4, 6, 9; 256D.44, subdivision 5; 299C.61, subdivision 6; 299C.62, subdivisions 3, 4; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; proposing coding for new law in Minnesota Statutes, chapters 245B; 471; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1."

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

Senate Conferees: TONY LOUREY, GEN OLSON and RICK OLSEEN.

House Conferees: JIM ABELER, CY THAO and JOHN LESCH.

Abeler moved that the report of the Conference Committee on S. F. No. 1447 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

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; 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; 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 by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 126 yeas and 8 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Drazkowski	Garofalo	Peppin
Buesgens	Emmer	Hackbarth	Zellers

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

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

MOTIONS AND RESOLUTIONS

Murphy, M., moved that S. F. No. 191, now on the General Register, be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

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

REPORTS OF STANDING COMMITTEES AND DIVISIONS

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

S. F. No. 1778, 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.

The report was adopted.

SECOND READING OF SENATE BILLS

S. F. No. 1778 was read for the second time.

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 Senate File, herewith transmitted:

S. F. No. 1797.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1797, A bill for an act relating to education; requiring the State Advisory Council on Early Childhood Education and Care to create an inventory of early childhood services; appropriating money.

The bill was read for the first time.

Slawik moved that S. F. No. 1797 and H. F. No. 2028, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 705:

Loeffler, Liebling and Abeler.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1276:

Norton, Fritz and Dean.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1728:

Loeffler, Slawik and Mack.

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 Sunday, May 17, 2009:

S. F. Nos. 711, 1208, 29 and 501; H. F. No. 1341; S. F. Nos. 1323, 1219 and 1481; H. F. No. 108; S. F. No. 971; H. F. No. 2380; and S. F. Nos. 1494, 740, 251, 1028, 41, 1369 and 1623.

CALENDAR FOR THE DAY

S. F. No. 711, A bill for an act relating to human services; modifying parental fees for services for persons with developmental disabilities; amending Minnesota Statutes 2008, section 252.27, subdivision 2a.

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 2 nays as follows:

Those who voted in the affirmative were:

Abeler	Champion	Falk	Hoppe	Kohls	McFarlane
Anderson, B.	Clark	Faust	Hornstein	Laine	McNamara
Anderson, P.	Cornish	Fritz	Hortman	Lanning	Morgan
Anderson, S.	Davids	Gardner	Hosch	Lenczewski	Morrow
Anzelc	Davnie	Garofalo	Howes	Lesch	Mullery
Atkins	Dean	Gottwalt	Huntley	Liebling	Murdock
Beard	Demmer	Greiling	Jackson	Lieder	Murphy, E.
Benson	Dettmer	Gunther	Johnson	Lillie	Murphy, M.
Bigham	Dill	Hackbarth	Juhnke	Loeffler	Nelson
Bly	Dittrich	Hamilton	Kahn	Loon	Newton
Brod	Doepke	Hansen	Kalin	Mack	Nornes
Brown	Doty	Hausman	Kath	Magnus	Norton
Brynaert	Downey	Haws	Kelly	Mahoney	Obermueller
Buesgens	Drazkowski	Hayden	Kiffmeyer	Mariani	Olin
Bunn	Eastlund	Hilstrom	Knuth	Marquart	Otremba
Carlson	Eken	Hilty	Koenen	Masin	Paymar

Peppin	Rukavina	Seifert	Slocum	Thissen	Welti
Persell	Ruud	Sertich	Smith	Tillberry	Westrom
Peterson	Sailer	Severson	Solberg	Torkelson	Winkler
Poppe	Sanders	Shimanski	Sterner	Urdahl	Zellers
Reinert	Scalze	Simon	Swails	Wagenius	Spk. Kelliher
Rosenthal	Scott	Slawik	Thao	Ward	

Those who voted in the negative were:

Emmer Holberg

The bill was passed and its title agreed to.

S. F. No. 1219 was reported to the House.

Howes moved to amend S. F. No. 1219, the second engrossment, as follows:

Page 4, after line 21, insert:

"Sec. 5. Minnesota Statutes 2008, section 326B.475, subdivision 1, is amended to read:

Subdivision 1. **Licensure.** (a) The commissioner of labor and industry shall grant a restricted journeyman or restricted master plumber license to an individual if:

- (1) the individual completes an application with information required by the commissioner of labor and industry;
- (2) the completed application is accompanied by a fee of \$30;

(3) the commissioner of labor and industry receives the completed application and fee ~~before October 1, 2008~~ between October 1, 2009, and October 15, 2009;

(4) the completed application for a restricted journeyman plumber license demonstrates that, prior to the application, the applicant has had at least two years of practical plumbing experience in the plumbing trade; and

(5) the completed application for a restricted master plumber license demonstrates that, prior to the application, the applicant has had:

- (i) at least four years of practical plumbing experience in the plumbing trade; or
- (ii) at least two years of practical plumbing experience as a plumbing contractor in the plumbing trade.

(b) ~~Until October 1, 2008~~ For applications received between October 1, 2009, and October 15, 2009, the commissioner may waive penalties for an applicant who failed to post a bond after June 30, 1999, under section 326B.46, subdivision 2, if the commissioner finds that the penalty would cause undue hardship or the waiver is otherwise warranted under the circumstances."

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. 1219, A bill for an act relating to occupations and professions; creating licensing standards for full-time firefighters; establishing fees; amending Minnesota Statutes 2008, section 299N.02, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 299N.

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 111 yeas and 22 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Cornish	Downey	Gottwalt	Magnus	Torkelson
Anderson, S.	Dean	Drazkowski	Hackbarth	Peppin	Zellers
Brod	Demmer	Eastlund	Hamilton	Severson	
Buesgens	Dettmer	Emmer	Loon	Shimanski	

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

S. F. No. 501, A bill for an act relating to human services; expanding the definition of services available under medical assistance for disabled children's services; amending Minnesota Statutes 2008, section 252.27, subdivision 1a.

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

The bill was passed and its title agreed to.

S. F. No. 1481 was reported to the House.

Buesgens offered an amendment to S. F. No. 1481, the second engrossment.

POINT OF ORDER

Buesgens raised a point of order pursuant to rule 3.21 that the Buesgens amendment was not in order. Speaker pro tempore Hortman ruled the point of order well taken and the Buesgens amendment out of order.

Solberg moved to amend S. F. No. 1481, the second engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2038, the second engrossment:

"Section 1. Minnesota Statutes 2008, section 16A.152, is amended by adding a subdivision to read:

Subd. 8. Report on budget reserve percentage. (a) The commissioner of finance must periodically review the formula developed as part of the Budget Trends Study Commission authorized by Laws 2007, chapter 148, article 2, section 81, to estimate the percentage of the preceding biennium's general fund expenditures and transfers recommended as a budget reserve.

(b) The commissioner must annually review the variables and coefficients in the formula used to model the base of the general fund taxes and the mix of taxes that provide revenues to the general fund. If the commissioner determines that the variables and coefficients have changed enough to result in a change in the percentage of the preceding biennium's general fund expenditures and transfers recommended as a budget reserve, the commissioner must update the variables and coefficients in the formula to reflect the current base and mix of general fund taxes.

(c) Every ten years, the commissioner must review the methodology underlying the formula, taking into consideration relevant economic literature from the past ten years, and determine if the formula remains adequate as a tool for estimating the percentage of the preceding biennium's general fund expenditures and transfers recommended as a budget reserve. If the commissioner determines that the methodology underlying the formula is outdated, the commissioner must revise the formula.

(d) By January 15 of each year, the commissioner must report to the chairs of the house of representatives Committee on Ways and Means and the senate Committee on Finance, in compliance with sections 3.195 and 3.197, on the percentage of the preceding biennium's general fund expenditures and transfers recommended as a budget reserve. The report must specify:

(1) if the commissioner updated the variables and coefficients in the formula to reflect significant changes to either the base of one or more general fund taxes or to the mix of taxes that provide revenues to the general fund as provided in paragraph (b);

(2) if the commissioner revised the formula after determining the methodology was outdated as provided in paragraph (c); and

(3) if the percentage of the preceding biennium's general fund expenditures and transfers recommended as a budget reserve has changed as a result of an update of or a revision to the formula.

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

Sec. 2. **[16B.90] MILESTONES REPORT REQUIRED.**

The Department of Administration may establish a statewide system of economic, social, and environmental performance measures. The milestones must provide the economic, social, and environmental information necessary for public and elected officials to understand and evaluate the sustainability of the state's long-term trends. The commissioner may report on the trends and their implications each year. The commissioner may contract for the development of information and measures.

Sec. 3. **CASH FLOW STUDY.**

By January 15, 2010, the commissioner of finance must submit to the chair of the Finance Committee in the senate and the chair of the Ways and Means Committee in the house of representatives, a report on the cash flow condition of the general fund for the fiscal year 2010-2011 biennium and the following biennium, including an assessment of the options for improving the long-term cash flow of the state through changes in the timing of general fund payment dates, revenue collections, or other changes. In addition, the report must identify all major provisions of law that result in state expenditures or revenues being recognized in budget documents in a fiscal year earlier or later than the fiscal year in which the obligation to pay state expenses was incurred or the liability to pay state taxes was incurred."

Delete the title and insert:

"A bill for an act relating to the budget reserve; requiring periodic review of the formula used for the budget reserve percentage; requiring reports; amending Minnesota Statutes 2008, section 16A.152, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 16B."

The motion prevailed and the amendment was adopted.

Brod, Garofalo, Zellers, Emmer, Seifert and Buesgens moved to amend S. F. No. 1481, the second engrossment, as amended, as follows:

Page 2, after line 28, insert:

"Sec. 5. Minnesota Statutes 2008, section 16A.11, subdivision 3, is amended to read:

Subd. 3. **Part two: detailed budget.** (a) Part two of the budget, the detailed budget estimates both of expenditures and revenues, must contain any statements on the financial plan which the governor believes desirable or which may be required by the legislature. The detailed estimates shall include the governor's budget arranged in tabular form.

(b) Tables listing expenditures for the next biennium must show the appropriation base for each year. The appropriation base is the amount appropriated for the second year of the current biennium. The tables must separately show any adjustments to the base required by current law or policies of the commissioner of finance. For forecasted programs, the tables must also show the amount of the forecast adjustments, based on the most recent forecast prepared by the commissioner of finance under section 16A.103. For all programs, the tables must show the amount of appropriation changes recommended by the governor, after adjustments to the base and forecast adjustments, and the total recommendation of the governor for that year.

(c) The detailed estimates must include a separate line listing the total cost of professional and technical service contracts for the prior biennium and the projected costs of those contracts for the current and upcoming biennium. They must also include a summary of the personnel employed by the agency, reflected as full-time equivalent positions.

(d) The detailed estimates for internal service funds must include the number of full-time equivalents by program; detail on any loans from the general fund, including dollar amounts by program; proposed investments in technology or equipment of \$100,000 or more; an explanation of any operating losses or increases in retained earnings; and a history of the rates that have been charged, with an explanation of any rate changes and the impact of the rate changes on affected agencies.

(e) The governor's budget may take into account the behavioral response of households and businesses to changes in tax policy and how those changes affect overall economic activity and state revenue collection."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

S. F. No. 1481, A bill for an act relating to the budget reserve; modifying priorities for additional revenues in general fund forecasts; requiring a report; amending Minnesota Statutes 2008, sections 16A.103, subdivisions 1a, 1b, by adding a subdivision; 16A.11, subdivision 1, by adding a subdivision; 16A.152, subdivision 2, by adding a subdivision.

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

The question was taken on the passage of the bill and the roll was called. There were 89 yeas and 45 nays as follows:

Those who voted in the affirmative were:

Anzelc	Doty	Hosch	Lieder	Norton	Sertich
Atkins	Eken	Howes	Lillie	Obermueller	Simon
Benson	Falk	Huntley	Loeffler	Olin	Slawik
Bigham	Faust	Jackson	Magnus	Otremba	Slocum
Bly	Fritz	Johnson	Mahoney	Paymar	Solberg
Brown	Gardner	Juhnke	Mariani	Pelowski	Sterner
Brynaert	Greiling	Kahn	Marquart	Persell	Swails
Bunn	Hansen	Kalin	Masin	Peterson	Thao
Carlson	Hausman	Kath	Morgan	Poppe	Tillberry
Champion	Haws	Knuth	Morrow	Reinert	Wagenius
Clark	Hayden	Koenen	Mullery	Rosenthal	Ward
Cornish	Hilstrom	Laine	Murphy, E.	Rukavina	Welti
Davnie	Hilty	Lenczewski	Murphy, M.	Ruud	Winkler
Dill	Hornstein	Lesch	Nelson	Sailer	Spk. Kelliher
Dittrich	Hortman	Liebling	Newton	Scalze	

Those who voted in the negative were:

Abeler	Dean	Garofalo	Kiffmeyer	Nornes	Thissen
Anderson, B.	Demmer	Gottwalt	Kohls	Peppin	Torkelson
Anderson, P.	Dettmer	Gunther	Lanning	Sanders	Urdahl
Anderson, S.	Doepke	Hackbarth	Loon	Scott	Westrom
Beard	Downey	Hamilton	Mack	Seifert	Zellers
Brod	Drazkowski	Holberg	McFarlane	Severson	
Buesgens	Eastlund	Hoppe	McNamara	Shimanski	
Davids	Emmer	Kelly	Murdock	Smith	

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 Reports of Standing Committees and Divisions

REPORTS OF STANDING COMMITTEES AND DIVISIONS

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

S. F. No. 191, 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; 471.61, subdivision 1; 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 for any future postretirement adjustments under section 356.415~~ 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~~ 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; 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 ~~(b)~~ (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 356.214², 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).

(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 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 ~~(a)~~ (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 ~~check 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~~ 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

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 7

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 ~~42~~ 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 + 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 8

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 9

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 10

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.001~~ 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~~ ceases to perform fire suppression duties with a particular volunteer fire department, ~~to permanently cease~~ ceases to perform fire prevention duties, ~~to permanently cease~~ ceases to supervise fire suppression duties, and ~~to permanently cease~~ 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 be~~ 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.

~~(e) 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.~~

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

~~(f)~~ (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.~~

~~(e) 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 is~~ no longer be 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~~ 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

~~(6)~~ (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 ~~so~~ 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 11

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 12

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 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 13

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; 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; 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, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2; 354.44, subdivisions 4, 5, 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.096; 354A.12, subdivision 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 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.

The report was adopted.

SECOND READING OF SENATE BILLS

S. F. No. 191 was read for the second time.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1853:

Atkins, Zellers and Johnson.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1009:

Hortman, Lesch and Smith.

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 9:30 a.m., Monday, May 18, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and Speaker pro tempore Hortman declared the House stands adjourned until 9:30 a.m., Monday, May 18, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives