

## FORTY-FOURTH DAY

St. Paul, Minnesota, Thursday, April 21, 2005

The Senate met at 11:30 a.m. and was called to order by the President.

### CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. David Holte.

The roll was called, and the following Senators answered to their names:

|              |               |          |            |           |
|--------------|---------------|----------|------------|-----------|
| Anderson     | Gerlach       | Larson   | Ortman     | Senjem    |
| Bakk         | Hann          | LeClair  | Ourada     | Skoe      |
| Belanger     | Higgins       | Limmer   | Pappas     | Skoglund  |
| Berglin      | Hottinger     | Lourey   | Pariseau   | Solon     |
| Betzold      | Johnson, D.E. | Marko    | Pogemiller | Sparks    |
| Chaudhary    | Johnson, D.J. | Marty    | Ranum      | Stumpf    |
| Cohen        | Jungbauer     | McGinn   | Reiter     | Tomassoni |
| Day          | Kelley        | Metzen   | Rest       | Vickerman |
| Dibble       | Kierlin       | Michel   | Robling    | Wergin    |
| Dille        | Kiscaden      | Moua     | Rosen      | Wiger     |
| Fischbach    | Kleis         | Murphy   | Ruud       |           |
| Foley        | Koering       | Neuville | Sams       |           |
| Frederickson | Kubly         | Nienow   | Saxhaug    |           |
| Gaither      | Langseth      | Olson    | Scheid     |           |

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 451.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 18, 2005

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

**S.F. No. 692:** A bill for an act relating to natural resources; deleting land from the Mississippi Recreational River Land Use District in Wright and Sherburne Counties.

Senate File No. 692 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 19, 2005

### CONCURRENCE AND REPASSAGE

Senator Ourada moved that the Senate concur in the amendments by the House to S.F. No. 692 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 692 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

|              |               |          |         |           |
|--------------|---------------|----------|---------|-----------|
| Anderson     | Gaither       | Kubly    | Nienow  | Scheid    |
| Bakk         | Gerlach       | Langseth | Olson   | Senjem    |
| Belanger     | Hann          | Larson   | Ortman  | Skoe      |
| Berglin      | Higgins       | LeClair  | Ourada  | Skoglund  |
| Betzold      | Hottinger     | Lourey   | Pappas  | Sparks    |
| Chaudhary    | Johnson, D.J. | Marko    | Ranum   | Stumpf    |
| Cohen        | Jungbauer     | Marty    | Reiter  | Tomassoni |
| Day          | Kelley        | McGinn   | Rest    | Vickerman |
| Dibble       | Kierlin       | Metzen   | Robling | Wergin    |
| Fischbach    | Kiscaden      | Michel   | Rosen   | Wiger     |
| Foley        | Kleis         | Murphy   | Ruud    |           |
| Frederickson | Koering       | Neuville | Saxhaug |           |

So the bill, as amended, was repassed and its title was agreed to.

### MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the adoption by the House of the following House Concurrent Resolution, herewith transmitted:

**House Concurrent Resolution No. 4:** A House concurrent resolution relating to the adjournment of the Senate on April 21, 2005.

BE IT RESOLVED, by the House of Representatives, the Senate concurring, that upon adjournment on April 21, 2005, the Senate may adjourn for more than three days.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 20, 2005

Senator Rest moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 792, 1761 and 2110.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 18, 2005

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 947.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 19, 2005

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 823 and 1320.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 20, 2005

### FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred as indicated.

**H.F. No. 792:** A bill for an act relating to commerce; regulating mortgage originators and servicers and athlete agents; amending Minnesota Statutes 2004, section 116J.70, subdivision 2a.

Referred to the Committee on Finance.

**H.F. No. 1761:** A bill for an act relating to health; providing for voluntary disenrollment from MinnesotaCare for certain members of the military; amending Minnesota Statutes 2004, section 256L.07, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1726, now on General Orders.

**H.F. No. 2110:** A bill for an act relating to domestic abuse; returning to a safety focus when awarding custody and parenting time in the context of a domestic abuse hearing; amending Minnesota Statutes 2004, section 518B.01, subdivision 6.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1920, now on General Orders.

**H.F. No. 947:** A bill for an act relating to health; providing for an optional record of birth resulting in stillbirth; amending Minnesota Statutes 2004, sections 144.212, subdivision 8; 144.222, subdivision 1; 144.226, subdivisions 1, 3, 4; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Rules, part 4601.2200, subpart 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1029.

**H.F. No. 823:** A bill for an act relating to natural resources; modifying designations of forest roads; modifying terms of timber sales on tax-forfeited lands; modifying the State Timber Act; modifying standard measurements for wood; amending Minnesota Statutes 2004, sections 89.71, subdivision 1; 90.01, by adding subdivisions; 90.041, subdivision 5; 90.042; 90.101, subdivision 2; 90.121; 90.172; 90.173; 90.195; 90.211; 90.301, subdivision 4; 239.33; 282.04, subdivision 1; repealing Minnesota Statutes 2004, sections 90.01, subdivision 9; 90.041, subdivisions 3, 4.

Referred to the Committee on Finance.

**H.F. No. 1320:** A bill for an act relating to local government; modifying regional park district provisions for Hennepin County; changing the term limit for a park superintendent; amending Minnesota Statutes 2004, sections 383B.68, subdivisions 1, 2, 4; 383B.70; 383B.702; 383B.703;

383B.71; 383B.72; 383B.73, subdivision 1; 398.10; 473.351, subdivisions 1, 6; 609.531, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1267, now on General Orders.

## REPORTS OF COMMITTEES

Senator Rest moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 631 and 1298. The motion prevailed.

### Senator Scheid from the Committee on Commerce, to which was referred

**S.F. No. 1782:** A bill for an act relating to commerce; regulating service contracts and contract providers; providing exceptions; proposing coding for new law as Minnesota Statutes, chapter 59B.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [59B.01] [SCOPE AND PURPOSE.]

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

(b) The following are exempt from this chapter:

(1) warranties;

(2) maintenance agreements;

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

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

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

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

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

(c) The types of agreements referred to in paragraph (b) are not subject to chapters 60A to 79A, except as otherwise specifically provided by law.

Sec. 2. [59B.02] [DEFINITIONS.]

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

Subd. 2. [ADMINISTRATOR.] "Administrator" means the person who is responsible for the administration of the service contracts or the service contracts plan or who is responsible for any filings required by this chapter.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 4. [CONSUMER.] "Consumer" means a natural person who buys, other than for purposes of resale, any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes.

Subd. 5. [MAINTENANCE AGREEMENT.] "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

Subd. 6. [PERSON.] "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert.

Subd. 7. [PREMIUM.] "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

Subd. 8. [PROVIDER.] "Provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

Subd. 9. [PROVIDER FEE.] "Provider fee" means the consideration paid for a service contract.

Subd. 10. [REIMBURSEMENT INSURANCE POLICY.] "Reimbursement insurance policy" means a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's nonperformance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

Subd. 11. [SERVICE CONTRACT.] "Service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling.

Subd. 12. [SERVICE CONTRACT HOLDER OR CONTRACT HOLDER.] "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

Subd. 13. [WARRANTY.] "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration, that is not negotiated or separated from the sale of the product, and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

### Sec. 3. [59B.03] [REQUIREMENTS FOR TRANSACTING BUSINESS.]

Subdivision 1. [APPOINTMENT OF ADMINISTRATOR.] A provider may, but is not required to, appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with this chapter.

Subd. 2. [CONTRACT COPIES AND RECEIPTS.] Service contracts must not be issued, sold, or offered for sale in this state unless the provider has:

(1) provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder;

(2) provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and

(3) complied with this chapter.

Subd. 3. [REGISTRATION.] Each provider of service contracts sold in this state shall file a

registration with the commissioner on a form prescribed by the commissioner. Each provider shall pay to the commissioner a fee in the amount of \$200 annually.

Subd. 4. [FINANCIAL REQUIREMENTS.] In order to ensure the faithful performance of a provider's obligations to its contract holders, each provider is responsible for complying with the requirements of one of the following:

(1) insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state, a risk retention group, as that term is defined in United States Code, title 15, section 3901(A)(4), as long as that risk retention group is registered pursuant to section 60E.03 or 60E.04 as applicable, and is in full compliance with the federal Liability Risk Retention Act of 1986, United States Code, title 15, section 3901, et al., or issued pursuant to sections 60A.195 to 60A.209, and either:

(i) the insurer or risk retention group shall, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least \$15,000,000, and annually file audited financial statements with the commissioner; or

(ii) the commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than \$15,000,000 but at least equal to \$10,000,000 to issue the insurance required by this section if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than 3 to 1; or

(2)(i) maintain a funded reserve account for obligations under contracts issued and outstanding in this state. The reserves must not be less than 40 percent of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account is subject to examination and review by the commissioner; and

(ii) place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than \$25,000, consisting of one of the following:

(A) a surety bond issued by an authorized surety;

(B) securities of the type eligible for deposit by authorized insurers in this state;

(C) cash;

(D) a letter of credit issued by a qualified financial institution containing an evergreen clause which prevents the expiration of the letter without due notice from the issuer; or

(E) another form of security prescribed by rules of the commissioner; or

(3)(i) maintain, or its parent company maintain, a net worth or stockholders' equity of \$100,000,000; and

(ii) upon request, provide the commissioner with a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least \$100,000,000. If the provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state.

Subd. 5. [RIGHT OF RETURN.] Service contracts must require the provider to permit the service contract holder to return the service contract within 20 days of the date the service contract was mailed to the service contract holder or within ten days of delivery if the service contract is

delivered to the service contract holder at the time of sale or within a longer time period permitted under the service contract. Upon return of the service contract to the provider within the applicable time period, if no claim has been made under the service contract before its return to the provider, the service contract is void and the provider shall refund to the service contract holder, or credit the account of the service contract holder, with the full purchase price of the service contract. The right to void the service contract provided in this paragraph is not transferable and applies only to the original service contract purchaser, and only if no claim has been made before its return to the provider. A ten percent penalty per month must be added to a refund that is not paid or credited within 45 days after return of the service contract to the provider.

Subd. 6. [PREMIUM TAXES.] (a) Provider fees collected on service contracts are not subject to premium taxes.

(b) Premiums for reimbursement insurance policies are subject to applicable taxes.

Subd. 7. [LICENSING EXEMPTION.] Except for the registration requirements in subdivision 3, providers and related service contract sellers, administrators, and other persons marketing, selling, or offering to sell service contracts are exempt from any licensing requirements of this state.

Subd. 8. [INSURANCE EXEMPTION.] The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts by providers and related service contract sellers, administrators, and other persons are exempt from all other provisions of the insurance laws of this state, except as provided in section 72A.20, subdivision 38.

Sec. 4. [59B.04] [REQUIRED DISCLOSURES; REIMBURSEMENT INSURANCE POLICY.]

Subdivision 1. [RIGHT TO PAYMENT OR REIMBURSEMENT.] Reimbursement insurance policies insuring service contracts issued, sold, or offered for sale in this state shall state that the insurer that issued the reimbursement insurance policy shall either reimburse or pay on behalf of the provider any covered sums the provider is legally obligated to pay or, in the event of the provider's nonperformance, shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

Subd. 2. [RIGHT TO APPLY TO COMPANY.] In the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the contract holder is entitled to apply directly to the reimbursement insurance company.

Sec. 5. [59B.05] [REQUIRED DISCLOSURE; SERVICE CONTRACTS.]

Subdivision 1. [READABILITY AND GENERAL DISCLOSURE.] Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state must be written, printed, or typed in clear, understandable language that is easy to read and must disclose the requirements set forth in this section, as applicable.

Subd. 2. [IDENTITIES OF PARTIES.] Service contracts must state the name and address of the provider, and must identify any administrator if different from the provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of the parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

Subd. 3. [TOTAL PURCHASE PRICE AND SALES TERMS.] Service contracts must state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale with the service contract holder.

Subd. 4. [DEDUCTIBLES.] Service contracts must state the existence of any deductible amount, if applicable.

Subd. 5. [COVERAGES, LIMITATIONS, AND EXCLUSIONS.] No particular causes of loss or property are required to be covered, but service contracts must specify the merchandise and services to be provided and, with equal prominence, any limitations, exceptions, or exclusions including, but not limited to, any damage or breakdown not covered by the service contract.

Subd. 6. [RESTRICTIONS ON TRANSFERABILITY.] Service contracts must state any restrictions governing the transferability of the service contract, if applicable.

Subd. 7. [CANCELLATION TERMS.] Service contracts must state the terms, restrictions, or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or the service contract holder. The provider of the service contract shall mail a written notice to the contract holder at the last known address of the service contract holder contained in the records of the provider at least 15 days before cancellation by the provider. Five days' notice is required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the service contract holder to the provider, or a substantial breach of duties by the service contract holder relating to the covered product or its use. The notice must state the effective date of the cancellation and the reason for the cancellation.

Subd. 8. [DUTIES OF CONTRACT HOLDER.] Service contracts must set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirement to follow the owner's manual.

Subd. 9. [EXCLUSIONS; CONSEQUENTIAL DAMAGES AND PREEXISTING CONDITIONS.] Service contracts may exclude coverage for consequential damages or preexisting conditions. These exclusions, if applicable, must be stated in the contract.

Sec. 6. [59B.06] [ADDITIONAL REQUIRED DISCLOSURE; SERVICE CONTRACTS.]

Subdivision 1. [INSURANCE DISCLOSURE.] Service contracts insured under a reimbursement insurance policy pursuant to section 59B.03, subdivision 4, clause (1), must contain a statement in substantially the following form: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract must also state the name and address of the insurer.

Subd. 2. [DISCLOSURE OF NO INSURANCE.] Service contracts not insured under a reimbursement insurance policy pursuant to section 59B.03, subdivision 4, clause (1), must contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider."

Sec. 7. [59B.07] [PROHIBITED ACTS.]

Subdivision 1. [DECEPTIVE NAMES.] A provider shall not use in its name the words insurance, casualty, surety, mutual, or any other words descriptive of the insurance, casualty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or to the name of any other provider. The word "guaranty" or similar word may be used by a provider. This section does not apply to a company that was using any of the prohibited language in its name before the effective date of this chapter. However, a company using the prohibited language in its name shall include in its service contracts a statement in substantially the following form: "This agreement is not an insurance contract."

Subd. 2. [FALSE OR MISLEADING STATEMENTS.] A provider or its representative shall not in its service contracts, literature, or otherwise make, permit, or cause to be made any false or misleading statement or omit any material statement that would be considered misleading if omitted.

Subd. 3. [REQUIRED PURCHASE.] A person, such as a bank, savings association, lending institution, manufacturer, or seller of any product shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

Sec. 8. [59B.08] [RECORD-KEEPING REQUIREMENTS.]



Subdivision 1. [GENERALLY.] The provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

The provider's accounts, books, and records include the following:

- (1) copies of each type of service contracts sold;
- (2) the name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;
- (3) a list of the locations where service contracts are marketed, sold, or offered for sale; and
- (4) written claims files which shall contain information regarding the services provided or claims payments for contracts that provide for payments or reimbursement, including at least the dates and description of claims related to the service contracts.

Subd. 2. [RETENTION.] (a) Except as provided in paragraph (b), the provider shall retain all records required to be maintained by this section for at least three years after the specified period of coverage has expired.

(b) A provider discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to contract holders in this state.

Subd. 3. [MEDIUM.] The records required by this chapter may be, but are not required to be, maintained on a computer disk or other record-keeping technology. If the records are maintained in other than hard copy, the records must be capable of duplication to legible hard copy at the request of the commissioner.

#### Sec. 9. [59B.09] [TERMINATION OF REIMBURSEMENT INSURANCE POLICY.]

An insurer that issued a reimbursement insurance policy may not terminate the policy unless the insurer mails or delivers written notice of the termination to the commissioner at least 30 days before the effective date of termination. The termination of a reimbursement insurance policy does not reduce the issuer's responsibility for service contracts issued by providers before the date of the termination.

#### Sec. 10. [59B.10] [OBLIGATION OF REIMBURSEMENT INSURANCE POLICY INSURERS.]

Insurers issuing reimbursement insurance to providers are deemed to have received the premiums for the insurance upon the payment of provider fees by consumers for service contracts issued by the insured providers.

Nothing in this chapter prevents or limits the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the issuer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract.

#### Sec. 11. [59B.11] [SEVERABILITY PROVISION.]

If any provision of this chapter or the application of the provision to any person or circumstances are held invalid, the remainder of this chapter and the application of the provision to person or circumstances other than those as to which it is held invalid, must not be affected.

Sec. 12. Minnesota Statutes 2004, section 72A.20, is amended by adding a subdivision to read:

Subd. 38. [UNFAIR CLAIMS SERVICE; SERVICE CONTRACTS.] No person shall, in connection with a service contract regulated under chapter 59B:

- (1) attempt to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the service contract holder;

(2) make a material misrepresentation to the service contract holder for the purpose and with the intent of effecting settlement of the claims, loss, or damage under the contract on less favorable terms than those provided in, and contemplated by, the contract; or

(3) commit or perform with such frequency as to indicate a general business practice any of the following practices:

(i) failure to properly investigate claims;

(ii) misrepresentation of pertinent facts or contract provisions relating to coverages at issue;

(iii) failure to acknowledge and act upon communications within a reasonable time with respect to claims;

(iv) denial of claims without conducting reasonable investigations based upon available information;

(v) failure to affirm or deny coverage of claims upon written request of the service contract holder within a reasonable time after proof-of-loss statements have been completed; or

(vi) failure to timely provide a reasonable explanation to the service contract holder of the basis in the contract in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective January 1, 2006, and apply to service contracts issued on or after that date. A provider transacting business in this state on or before the date of the enactment of this chapter, which submits an application for registration as a provider under Minnesota Statutes, section 59B.03, subdivision 3, within 30 days after the commissioner makes the application available, may continue to transact business in this state until final agency action is taken by the commissioner regarding the registration application and all rights to administrative and judicial review related to that final agency action have been exhausted or have expired."

Delete the title and insert:

"A bill for an act relating to commerce; regulating service contracts and contract providers; providing exceptions; amending Minnesota Statutes 2004, section 72A.20, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 59B."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

**Senator Scheid from the Committee on Commerce, to which was referred**

**S.F. No. 314:** A bill for an act relating to insurance; the Minnesota FAIR plan; regulating property and liability coverage; amending Minnesota Statutes 2004, section 65A.08, subdivision 2.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 16, before the period, insert ", provided that, in the case of a total loss, the premium paid attributable to the difference between the whole amount mentioned in the policy and the amount paid for the loss is refunded to the insured"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Scheid from the Committee on Commerce, to which was referred**

**S.F. No. 1462:** A bill for an act relating to insurance; regulating certain fees, rate filings, and policy renewals and alterations; regulating the collection of certain information; amending Minnesota Statutes 2004, sections 60A.08, subdivision 3; 60A.14, subdivision 1; 60A.171,

subdivisions 1, 2; 60A.351; 60K.46, subdivision 7; 61A.02, subdivision 2, by adding a subdivision; 62A.02, subdivision 1; 70A.06, subdivision 1; 72A.501, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2004, section 60A.171, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, delete lines 16 to 24 and insert:

"Subd. 3. [RENEWAL; NEW POLICY.] Any insurance policy terminating by its provisions at a specified expiration date or limited as to term by any statute and not otherwise renewable may be renewed or extended at the option of the insurer, at the premium rate then required therefor, for a specific additional period or periods by a certificate, and without requiring the issuance of a new policy more than once in any five-year period. The insurer must also post the current policy form on its Web site, or must inform the policyholder annually in writing that a copy of the current policy form is available on request."

Page 3, line 16, delete "under"

Page 3, line 17, delete "section 70A.06"

Page 3, line 23, after "insurer" insert "or the rate service organization" and delete everything after "amendments," and insert "and endorsements"

Page 3, line 24, delete "and rates" and delete everything after "statutes"

Page 3, delete lines 25 to 28 and insert ", rules, and case law. If the filing will impact rates, the filing must comply with section 70A.06, subdivisions 1 and 1a. Forms and rates filed under this procedure are effective upon receipt by the department. Anyone using the expedited filing procedures authorized by this section must provide copies of the form filings within 24 hours of receiving a request from the commissioner. Insurers may comply with this requirement by providing the form filings in paper or electronic format."

Subd. 3. [APPLICATION OF LAW.] If an insurer uses the services of a rate service organization for purposes of filing a certificate of compliance under this section, the certification by the rate service organization under subdivision 2 does not excuse the insurer from its obligation to ensure that its filing complies with all applicable Minnesota statutes, rules, and case law."

Page 3, line 29, delete "3" and insert "4"

Page 3, line 34, delete "4" and insert "5"

Page 3, line 36, delete "one year" and insert "five years"

Page 4, delete lines 4 to 6 and insert:

"Subd. 6. [AUDITS; PENALTIES.] The commissioner is authorized to conduct audits and investigations under section 45.027 and this chapter to determine if the insurers are complying with Minnesota law in the issuance of policies described under this section. If the policy filings contain provisions that are inconsistent with or violate Minnesota law, the commissioner may take action against the insurer under section 45.027. The commissioner shall assess the insurer for the costs of the investigation performed by the department and shall deposit all such assessments into the revolving fund established under section 60A.03."

Page 7, delete lines 1 to 5 and insert "CONTRACTS; FORM AND RATE FILING REVIEWS.] (a) An insurer may file a life or annuity contract, rates, or forms and all related riders of any kind or description with the commissioner for a review under this subdivision. Any review must be completed within 60 days of receipt of a completed filing. The cost of any actuarial review"

Page 7, line 18, after the period, insert "All hearings must be conducted in accordance with chapter 14."

Page 7, delete lines 25 to 30 and insert "be members of the American Academy of Actuaries. The commissioner may contract with actuaries to review rate applications submitted by insurers under this subdivision, and shall assess the applicant for the costs of this review. Payments received by the commissioner under this subdivision shall be deposited in the revolving fund established under section 60A.03."

Pages 7 to 10, delete sections 10 to 12

Page 10, line 20, delete "9, 10, and 11" and insert "and 9"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 4

Page 1, delete line 9

Page 1, line 10, delete "subdivision 2;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was referred**

**S.F. No. 1673:** A bill for an act relating to taxation; providing a subtraction from taxable income for costs incurred for certain purchases of wind-generated electricity; amending Minnesota Statutes 2004, section 290.01, subdivision 19b.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 35, delete "for the primary residence of the taxpayer"

Page 4, after line 1, insert:

"Sec. 2. Minnesota Statutes 2004, section 290.01, subdivision 19d, is amended to read:

Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME.] For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the amount of salary expense not allowed for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

(i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

(ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

(iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;

(9) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;

(10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation;

(11) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

(12) the amount of handicap access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

(13) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068;

(14) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;

(15) the amount of any refund of environmental taxes paid under section 59A of the Internal Revenue Code;

(16) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(17) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;

(18) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law 107-147; ~~and~~

(19) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (16). The resulting delayed depreciation cannot be less than zero; and

(20) the amount paid by the taxpayer to a utility as an additional rate amount determined under section 216B.169, subdivision 2, for the purchase of renewable and high-efficiency energy.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2005."

Amend the title as follows:

Page 1, line 5, delete "subdivision" and insert "subdivisions"

Page 1, line 6, before the period, insert ", 19d"

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

**Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was referred**

**S.F. No. 2093:** A bill for an act relating to commerce; modifying definition of "wage"; amending Minnesota Statutes 2004, section 177.23, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 177.23, subdivision 4, is amended to read:

Subd. 4. [WAGE.] "Wage" means compensation due to an employee by reason of employment, payable in:

(1) legal tender of the United States;;

(2) check on banks convertible into cash on demand at full face value ~~or~~;

(3) except for instances of written objection to the employer by the employee, direct deposit to the employee's choice of demand deposit account; or

(4) an electronic fund transfer to a payroll card account that meets all of the requirements of section 177.255, subject to allowances permitted by rules of the department under section 177.28.

Sec. 2. [177.255] [PAYROLL CARD ACCOUNT.]

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

(a) "Payroll card" means a card issued to an employee to access funds from the employee's payroll card account, in a manner consistent with this section.

(b) "Payroll card account" means an arrangement whereby an employer pays each participating employee's wages by making an electronic fund transfer to an account. Each participating employee must own the portion of the payroll card account that corresponds to the employee's wages, and participating employees receive a payroll card to access their funds.

(c) "Payroll card issuer" means an employer that establishes payroll card accounts for paying wages to its employees. The term also includes a bank or other entity that issues a payroll card on behalf of an employer. An agreement between the employer and the bank may specify which party is responsible for the requirements of this section.

(d) "Free" means no fee is deducted from the employee's payroll card account or charged to the employee by the employee's payroll card issuer or issuers.

(e) "Fee" means any and all fees, charges, surcharges, or costs deducted from an employee's payroll card account or charged to an employee by the employee's payroll card issuer or issuers.

Subd. 2. [FREE WITHDRAWAL.] A payroll card issuer must allow an employee who chooses to receive wages through a payroll card account to make a free withdrawal from the employee's payroll account of an amount up to and including the employee's entire net pay as stated on the employee's earnings statement. This free transaction provided by the payroll card issuer must be available on or after the employee's regular payday.

Subd. 3. [FEE DISCLOSURE.] When offering an employee the option of receiving payment of wages through a payroll card account, an employer must provide to the employee a written disclosure of all the employee's wage payment options. The disclosure shall state the terms and conditions of the payroll card account option, including a complete itemized list of, and dollar amounts for, all fees that may be deducted from the employee's payroll card account or may be charged to the employee by the employee's payroll card issuer or issuers, including, but not limited to, automated teller machine fees, card issuance fees, card activation fees, card replacement fees, fees to close the payroll card account or withdraw remaining funds, monthly fees, balance inquiry fees, fees per transaction, fees for excess transactions, point of sale fees, loading fees, fees for statements and transaction histories, and fees related to the provision of customer service. The disclosure must also state that third parties may assess transaction fees in addition to the fees assessed by the employee's payroll card issuer or issuers. A copy of the written disclosure must be provided to the employee.

Subd. 4. [EMPLOYEE CONSENT TO ELECTRONIC PAYMENT.] The employer may initiate payment by electronic fund transfer to a payroll card account only after the employee has voluntarily consented in writing to that method of payment. Consent to payment by electronic fund transfer to a payroll card account shall not be a condition of hire or of employment. On the consent form, the employee must also acknowledge receiving the payroll card issuer's written disclosure of the payroll card account terms and conditions under subdivision 3. A copy of the signed written consent must be provided to the employee.

Subd. 5. [MONTHLY TRANSACTION STATEMENT.] The payroll card issuer shall provide an option for the employee to receive at least one free transaction history each month that includes all deposits, withdrawals, deductions, or charges by an entity from or to the employee's payroll card account. Any fee assessed by the employee's payroll card issuer that was not disclosed to the employee may not be deducted from the employee's payroll card account or charged to the employee.

Subd. 6. [TYING ARRANGEMENTS PROHIBITED.] A payroll card issuer shall not link the payroll card or payroll card account to any form of credit, including, but not limited to, a loan against future pay or a cash advance on future pay.

Subd. 7. [EMPLOYER ACCESS TO ACCOUNT INFORMATION.] An employer is not entitled to any information generated by the employee's possession or use of a payroll card or payroll card account except to process transactions and administer the payroll card and payroll card account.

Subd. 8. [FOREIGN LANGUAGE DISCLOSURES.] Any employer who offers a payroll card to an employee using written materials in a language other than English shall ensure that the payroll card account disclosures under subdivision 3 and all payroll card account agreements are provided in that same language.

Subd. 9. [TERMINATION OF ELECTRONIC PAYMENT.] If an employee who is being paid wages by electronic fund transfer to a payroll card account requests in writing to be paid wages by legal tender, check, or direct deposit, the employer shall, within 14 days of the employee's request, begin payment by the requested method.

Subd. 10. [PROHIBITED FEES.] A payroll card issuer may not charge an inactivity or a dormancy fee on a payroll card account.

Subd. 11. [PENALTIES.] Violation of this section is considered a violation of section 181.79 and subject to the same penalties."

Amend the title as follows:

Page 1, line 2, after the second semicolon, insert "regulating payroll cards and payroll accounts;"

Page 1, line 4, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 177"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was referred**

**S.F. No. 1509:** A bill for an act relating to housing; providing certain manufactured home park exclusions; amending Minnesota Statutes 2004, section 327.23, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 327.23, is amended by adding a subdivision to read:

Subd. 2a. [SEASONAL AGRICULTURAL OPERATIONS.] The term "manufactured home park" shall not be construed to include up to four manufactured homes maintained by an individual or a company on premises associated with a seasonal agricultural operation, in an area zoned agricultural, and used exclusively to house individuals or families performing labor as defined in section 3121(g) of the Internal Revenue Code if:

(1) the manufactured homes are equipped with indoor plumbing facilities and meet the standards for water and sanitation established in Minnesota Rules, parts 4630.0600, subpart 1; 4630.0700; 4630.1200; 4630.3500; and 4715.0310;

(2) each manufactured home provides at least 80 square feet of indoor living space for each of its inhabitants;

(3) the manufactured homes and their installation comply with section 327.34, subdivision 1, and Minnesota Rules, chapter 1350;

(4) the individual or company maintaining the manufactured homes, with the assistance and



approval of the political subdivision where the homes are located, develops and posts in conspicuous locations near the homes, a shelter or safe evacuation plan in the event of severe weather conditions, such as tornadoes, high winds, and floods; and

(5) the individual or company maintains the homes in a clean, orderly, and sanitary condition.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Lourey from the Committee on Health and Family Security, to which was referred**

**S.F. No. 2042:** A bill for an act relating to adoption; requiring the commissioner of human services to adopt certain rules.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [259.88] [DATA AND BEST PRACTICES.]

Subdivision 1. [REQUIRED DATA FOR POSTADOPTION SEARCH SERVICES.] (a) The commissioner of human services must collect data from all adoption agencies for six months in order to establish benchmarks to evaluate postadoption search services. The data must include:

(1) the percentage of requests resulting in successful location of the other party;

(2) the percentage of requests resulting in successful completion of the commissioner's designated form for family medical and social history;

(3) the time from request for search to completion of search; and

(4) the number and type of efforts used to complete the search.

(b) Agencies must provide the number of search requests received during the six-month period prior to the effective date of this bill to the commissioner of human services.

(c) The data must be used to establish reasonable efforts in developing the best practices under subdivision 2.

Subd. 2. [BEST PRACTICES.] The commissioner of human services, in consultation with the commissioner of health, must develop best practice guidelines for conducting postadoption services.

Sec. 2. [REPORT.]

The commissioner must report to the legislature by February 1, 2006. The report must include an assessment of the data gathered under section 1, subdivision 1, and the best practices guidelines developed under section 1, subdivision 2.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to adoption; providing for data collection and best practice guidelines for conducting postadoption services; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 259."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Foley from the Committee on Crime Prevention and Public Safety, to which was re-referred**

**S.F. No. 149:** A bill for an act relating to firearms; authorizing the use of silencers to muffle discharges of firearms for natural resource wildlife control; amending Minnesota Statutes 2004, sections 97B.031, subdivision 4; 609.66, subdivision 1h.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 3, after "officer" insert "or a United States Department of Agriculture, Animal and Plant Health Inspection Service's Wildlife Services office employee acting under contract with the commissioner of natural resources"

Page 2, line 13, after "to" insert "no more than"

Page 2, after line 15, insert:

"Sec. 3. [EXPIRATION.]

The amendments to Minnesota Statutes, section 609.66, subdivision 1h, made by section 2 expire August 1, 2007.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following enactment.

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "temporarily"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Marty from the Committee on Environment and Natural Resources, to which was referred**

**S.F. No. 1342:** A bill for an act relating to natural resources; modifying certain exemptions for an iron nugget production scale demonstration facility; amending Laws 2004, chapter 220, section 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 2004, section 116.915, subdivision 3, is amended to read:

Subd. 3. [PROGRESS REPORTS.] The commissioner, in cooperation with the director of the Office of Environmental Assistance, shall submit progress reports to the legislature on October 15, 2001, and October 15, 2005. The reports shall address the state's success in meeting the mercury release reduction goals of subdivision 1, and discuss whether different voluntary or mandatory reduction strategies are needed. The reports shall also discuss whether the reduction goals are still appropriate given the most recent information regarding mercury risks. In the report due October 15, 2005, the commissioner shall describe the reductions made in mercury emissions since 1990 by each individual sector, including, but not limited to, materials processing, energy production, and intentional use, and shall estimate the amount of the reduction achieved in each sector overall and specifically as a result of implementing a voluntary reduction plan. The report must also contain revised estimates of mercury emissions by individual sectors in 1990, 1995, 2000, and 2005."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring mercury reduction information;" and after "amending" insert "Minnesota Statutes 2004, section 116.915, subdivision 3;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1722:** A bill for an act relating to human services; making changes to licensing provisions and background studies; changing provisions for state-operated services in access to data, records retention, sharing information, and assisting a patient required to register as a predatory offender in completing registration forms; adding a notification provision for certain patients released on pass; adding a provision to abuse prevention plans; amending Minnesota Statutes 2004, sections 13.46, subdivision 4; 243.166, subdivision 7; 245A.02, subdivision 17; 245A.03, subdivisions 2, 3; 245A.035, subdivision 5; 245A.04, subdivisions 7, 13; 245A.07, subdivisions 1, 3; 245A.08, subdivisions 2a, 5; 245A.14, by adding subdivisions; 245A.144; 245A.16, subdivision 4; 245A.18; 245B.02, subdivision 10; 245B.055, subdivision 7; 245B.07, subdivision 8; 245C.03, subdivision 1; 245C.07; 245C.08, subdivisions 1, 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.17, subdivision 2; 245C.21, subdivision 2; 245C.22, subdivisions 3, 4; 245C.24, subdivisions 2, 3; 245C.27, subdivision 1; 245C.28, subdivision 3; 245C.30, subdivision 2; 246.13; 253B.18, subdivision 4a; 260B.163, subdivision 6; 260C.163, subdivision 5; 299C.093; 518.165, by adding subdivisions; 609A.03, subdivision 7; 626.556, subdivision 10; 626.557, subdivisions 9d, 14; repealing Minnesota Statutes 2004, section 246.017, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 10, line 12, after "process" insert "to the prospective licensee"

Page 10, line 15, delete "ask" and insert "provide"

Page 10, line 16, delete everything after the first "licensee"

Page 10, delete lines 17 to 19 and insert "with information regarding appropriate options for legal representation in the pertinent geographic area. If a relative is initially disqualified under section 245C.14, the county or child-placing agency must provide written notice of the reasons for the disqualification and the right to request a reconsideration by the commissioner as required under section 245C.17."

(c) The commissioner shall maintain licensing data so that activities related to applications and licensing actions for relative foster care providers may be distinguished from other child foster care settings."

Page 22, after line 2, insert:

"Sec. 16. Minnesota Statutes 2004, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 and chapter 245C, to recommend denial of applicants under section 245A.05, to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06, or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment; and

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours.

(b) County agencies must report:

(1) information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner; and

(2) for relative child foster care applicants and license holders, the number of relatives, as defined in section 260C.007, subdivision 27; household members of relatives who are disqualified under section 245C.14; the disqualifying characteristics under section 245C.15; the number of these individuals who requested reconsideration under section 245C.21; number of set-asides under section 245C.22; and variances under section 245C.30 issued. This information shall be reported to the commissioner annually by January 15 of each year 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."

Page 33, line 30, after "(c)" insert "For child foster care and family child care only."

Page 33, line 33, before the period, insert ", following a petition for termination of parental rights under section 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision 3"

Page 65, delete lines 3 to 9 and insert "contain an individualized assessment of:

(1) the person's susceptibility to abuse by other individuals, including other vulnerable adults;

(2) the person's risk of abusing other vulnerable adults; and a statement

(3) statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For the purposes of this clause, the term "abuse" includes self-abuse."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 16, delete "subdivision 4" and insert "subdivisions 1, 4"

And when so amended the bill do pass. Amendments adopted. Report adopted.

### **Senator Betzold from the Committee on Judiciary, to which was referred**

**S.F. No. 1969:** A bill for an act relating to civil law; providing for use of financial planners in preparing a conservator's inventory for the court; providing a certified public accountant's audit to be used in the conservator's annual accounting; amending Minnesota Statutes 2004, sections 524.5-419; 524.5-420.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 524.5-417, is amended to read:

524.5-417 [GENERAL POWERS AND DUTIES OF CONSERVATOR.]

(a) A conservator shall be subject to the control and direction of the court at all times and in all things.

(b) The court shall grant to a conservator only those powers necessary to provide for the demonstrated needs of the protected person.

(c) The court may appoint a conservator if it determines that all the powers and duties listed in this section are needed to provide for the needs of the protected person. The court may also appoint a conservator if it determines that a conservator is necessary to provide for the needs of the protected person through the exercise of some, but not all, of the powers and duties listed in this section. The duties and powers of a conservator include, but are not limited to:

(1) the duty to pay the reasonable charges for the support, maintenance, and education of the protected person in a manner suitable to the protected person's station in life and the value of the estate. Nothing herein contained shall release parents from obligations imposed by law for the support, maintenance, and education of their children. The conservator has no duty to pay for these requirements out of personal funds. Wherever possible and appropriate, the conservator should meet these requirements through governmental benefits or services to which the protected person is entitled, rather than from the protected person's estate. Failure to satisfy the needs and requirements of this section shall be grounds for removal, but the conservator shall have no personal or monetary liability;

(2) the duty to pay out of the protected person's estate all lawful debts of the protected person and the reasonable charges incurred for the support, maintenance, and education of the protected person's spouse and dependent children and, upon order of the court, pay such sum as the court may fix as reasonable for the support of any person unable to earn a livelihood who is legally entitled to support from the protected person;

(3) the duty to possess and manage the estate, collect all debts and claims in favor of the protected person, or, with the approval of the court, compromise them, institute suit on behalf of the protected person and represent the protected person in any court proceedings, and invest all funds not currently needed for the debts and charges named in clauses (1) and (2) and the management of the estate, in accordance with the provisions of sections 48A.07, subdivision 6, and 501B.151, 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all investments by a conservator. A conservator shall also have the power to purchase certain contracts of insurance as provided in section 50.14, subdivision 14, clause (b);

(4) where a protected person has inherited an undivided interest in real estate, the court, on a showing that it is for the best interest of the protected person, may authorize an exchange or sale of the protected person's interest or a purchase by the protected person of any interest other heirs may have in the real estate, subject to the procedures and notice requirements of section 524.5-418;

(5) the power to approve or withhold approval of any contract, except for necessities, which the protected person may make or wish to make; and

(6) the power to apply on behalf of the protected person for any assistance, services, or benefits available to the protected person through any unit of government.

(d) The conservator shall have the power to revoke, suspend, or terminate all or any part of a durable power of attorney of which the protected person is the principal with the same power the principal would have if the principal were not incapacitated. If a durable power of attorney is in effect, a decision of the conservator takes precedence over that of an attorney-in-fact.

(e) Transaction set aside. If a protected person has made a financial transaction or gift or entered into a contract during the two-year period before establishment of the conservatorship, the conservator may petition for court review of the transaction, gift, or contract. If the court finds that the protected person was incapacitated or subject to duress, coercion, or undue influence when the transaction, gift, or contract was made, the court may declare the transaction, gift, or contract void except as against a bona fide transferee for value and order reimbursement or other appropriate relief. This paragraph does not affect any other right or remedy that may be available to the protected person with respect to the transaction, gift, or contract.

(f) After the filing of the petition, a certificate of the district court certified to that fact may be filed for record with the Minnesota secretary of state in the same manner as provided in section 336.9-501. The certificate shall state that a petition is pending and the name and address of the person for whom a conservator is sought. If a conservator is appointed on the petition, and if the conservatorship order removes or restricts the right of the protected person to transfer property or to contract, then all contracts except for necessities, and all transfers of personal property, tangible or intangible, including, but not limited to, cash or securities transfers at banks, brokerage houses, or other financial institutions, or transfers of cash or securities, made by the protected person after the filing and before the termination of the conservatorship shall be voidable.

Sec. 2. Minnesota Statutes 2004, section 524.5-423, is amended to read:

524.5-423 [SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING CONFLICT OF INTEREST.]

Any transaction involving the conservatorship estate which is affected by a conflict between the conservator's fiduciary and personal interests is voidable unless the transaction is expressly authorized by the court after notice to interested persons. A transaction affected by a conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator, the spouse, descendant, agent, or lawyer of a conservator, or corporation or other enterprise in which the conservator has a beneficial interest. Notwithstanding a conflict between the conservator's fiduciary and personal interests, the court has discretion to allow a transaction of beneficial interest to the conservator, as long as the conservator can prove that this transaction is primarily in the best interest of the protected person.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and shall include all proceedings open or pending on that date."

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "providing for certain conservator's transactions"

Page 1, delete lines 3 to 5

Page 1, line 6, delete "accounting"

Page 1, delete line 7 and insert "524.5-417; 524.5-423."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1892:** A bill for an act relating to human services; establishing participation in the I-Save Rx prescription drug program; proposing coding for new law in Minnesota Statutes, chapter 256.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, lines 12 and 13, delete "Canada, Ireland, and the United Kingdom" and insert "countries other than the United States"

Page 2, line 7, after "safety" insert "which are comparable to the standards of the United States"

Page 2, lines 27 and 28, delete "Canada, Ireland, and the United Kingdom" and insert "countries other than the United States"

Page 4, line 32, delete "and the governor's name"

Page 5, delete lines 11 to 21

Page 5, line 22, delete "14" and insert "13"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

#### **Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1672:** A bill for an act relating to transportation; modifying provisions relating to property transactions of Department of Transportation; making clarifying changes; amending Minnesota Statutes 2004, sections 13.44, subdivision 3; 117.036; 161.44, by adding a subdivision; 161.442; 515B.1-107; 515B.3-102.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, delete lines 24 to 28

Page 4, delete lines 18 to 32

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

#### **Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1783:** A bill for an act relating to insurance; regulating agency terminations, coverages, fees, forms, disclosures, reports, information security, and premiums; amending Minnesota Statutes 2004, sections 59A.12, subdivision 2; 60A.14, subdivision 1; 60A.171, subdivision 11; 60A.23, subdivision 8; 60A.966; 60A.969; 62A.136; 62A.31, subdivision 1h; 62A.315; 62A.316; 62E.13, subdivision 2; 62Q.471; 65A.29, subdivision 11; 65B.48, subdivision 3; 72A.20, subdivisions 13, 36; 79.211, by adding a subdivision; 79.40; 79.56, subdivisions 1, 3; 79.62, subdivision 3; 79A.03, subdivision 9; 79A.04, subdivisions 2, 10; 79A.06, subdivision 5; 79A.12, subdivision 2; 79A.22, subdivision 11, by adding a subdivision; 176.191, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 60A; 60D; repealing Minnesota Statutes 2004, sections 61A.072, subdivision 2; 62E.03.

Reports the same back with the recommendation that the bill be amended as follows:

Page 24, after line 21, insert:

"Sec. 21. Minnesota Statutes 2004, section 72A.501, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT; CONTENT.] An authorization used by an insurer, insurance-support organization, or insurance agent to disclose or collect personal or privileged information must be in writing and must meet the following requirements:

- (1) is written in plain language;
- (2) is dated;
- (3) specifies the types of persons authorized to disclose information about the person;
- (4) specifies the nature of the information authorized to be disclosed;
- (5) names the insurer or insurance agent and identifies by generic reference representatives of the insurer to whom the person is authorizing information to be disclosed;

(6) specifies the purposes for which the information is collected; and

(7) specifies the length of time the authorization remains valid.

If the insurer, insurance-support organization, or insurance agent determines to disclose or collect a kind of information not specified in a previous authorization, a new authorization specifying that kind of information must be obtained.

Sec. 22. Minnesota Statutes 2004, section 72A.501, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] (a) If the authorization is signed to collect information in connection with an application for a property and casualty insurance policy, a policy reinstatement, or a request for a change in benefits, the authorization ~~must not remain~~ is valid for longer than one year from the date the authorization is signed or the date the insurer grants or denies coverage, reinstatement, or change in benefits, whichever is sooner as long as the individual is continually insured with the insurer. At each renewal of the policy, the insurer must notify the insured in writing of the contents of the authorization and that the authorization remains in effect unless revoked.

(b) If the authorization is signed to collect information in connection with an application for a life, disability, and health insurance policy or contract, reinstatement, or request for change in benefits, the authorization ~~may not remain~~ is valid for longer than 26 months from the date the authorization is signed as long as the individual is continually insured with the insurer. At each renewal of the policy, the insurer must notify the insured in writing of the contents of the authorization and that the authorization remains in effect unless revoked.

(c) This section and section 72A.502, subdivisions 1 and 12, do not apply to the collection and use of a numeric product referred to as an insurance score or credit score that is used by a licensed insurance agent or insurer exclusively for the purpose of underwriting or rating an insurance policy, if the agent or insurer informs the policyholder or prospective policyholder requesting the insurance coverage that an insurance score or credit score will be obtained for the purpose of underwriting or rating the policy."

Page 24, line 33, after "in" insert "computing the"

Page 39, line 22, delete "22" and insert "24" and delete "28" and insert "30" and delete "33" and insert "35"

Page 39, line 23, delete "23" and insert "25"

Page 39, line 24, delete "25" and insert "27"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, after "36;" insert "72A.501, subdivisions 1, 2;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

### **Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1504:** A bill for an act relating to public safety; modifying provisions regulating motor vehicle and driver applications and records; modifying vehicle accident reports and procedures, including provision for vehicle accident "long arm" statute; making technical and clarifying changes; amending Minnesota Statutes 2004, sections 168.346; 168A.04, by adding a subdivision; 169.09, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, by adding subdivisions; 171.07, subdivisions 1, 3; 171.12, subdivision 7; repealing Minnesota Statutes 2004, sections 169.09, subdivision 10; 170.55.

Reports the same back with the recommendation that the bill be amended as follows:



Pages 1 to 3, delete section 1

Pages 13 and 14, delete section 20

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "168.346;"

Page 1, line 11, delete "171.12, subdivision 7;"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1360:** A bill for an act relating to commerce; regulating unclaimed property held by cooperatives and the right to receive or recover unclaimed property; modifying public notice requirements; amending Minnesota Statutes 2004, sections 308A.711, subdivisions 1, 3; 308B.735, subdivisions 1, 3; 345.42, subdivision 1; 345.46; repealing Minnesota Statutes 2004, sections 308A.711, subdivision 2; 308B.735, subdivision 2; 345.42, subdivisions 2, 3, 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 22, after the period, insert "The commissioner shall, at a minimum, expend 15 percent of the funds allocated by the legislature to the operations of the unclaimed property division, to comply with the public notice requirements of this subdivision."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1201:** A bill for an act relating to crime prevention; requiring all persons arrested for or convicted of committing a felony to submit a DNA sample to law enforcement at the time of booking; appropriating money; amending Minnesota Statutes 2004, sections 13.6905, subdivision 17; 299C.03; 299C.08; 299C.11; 299C.155; 299C.21; 609.117; 609A.02, subdivision 3; 609A.03, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 299C; repealing Minnesota Statutes 2004, section 609.119.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 609.119, is amended to read:

609.119 [ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR DNA TESTING.]

(a) ~~From July 1, 2003, to June 30, 2005,~~ The court shall order an offender to provide a biological specimen for the purpose of ~~future~~ DNA analysis as described in section 299C.155 when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and the person is convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and is adjudicated delinquent for that offense or any felony-level offense arising out of the same set of circumstances.

The biological specimen shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

(b) ~~From July 1, 2003, to June 30, 2005,~~ The commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of ~~future~~ DNA analysis as described in section 299C.155 before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis, and the person:

(1) was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, or of any felony offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1.

The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

(c) ~~From July 1, 2003, to June 30, 2005,~~ When the state accepts an offender from another state under the interstate compact authorized by section 243.16 or 243.1605, the acceptance is conditional on the offender providing a biological specimen for the purposes of ~~future~~ DNA analysis as described in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

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

Sec. 2. [APPROPRIATIONS.]

\$..... is appropriated for the fiscal year ending June 30, 2006, and \$..... is appropriated for the fiscal year ending June 30, 2007, from the general fund to the superintendent of the Bureau of Criminal Apprehension to fund DNA collection and testing under section 1."

Delete the title and insert:

"A bill for an act relating to public safety; removing the sunset on the collection of biological specimens for DNA testing from persons convicted or adjudicated delinquent of a felony; appropriating money; amending Minnesota Statutes 2004, section 609.119."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1425:** A bill for an act relating to government data practices; classifying certain data of the Department of Transportation; amending Minnesota Statutes 2004, sections 13.591, by adding a subdivision; 13.72, by adding subdivisions.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 11. [DESIGN-BUILD TRANSPORTATION PROJECT.] When the Department of Transportation undertakes a design-build transportation project as defined in section 161.3410, subdivision 6, the statement of qualification evaluation criteria and scoring methodology, statement of qualification evaluations, technical proposal evaluation criteria and scoring methodology, and technical proposal evaluations are classified as protected nonpublic data with regard to data not on individuals and as confidential data on individuals. The statement of qualification evaluation criteria and scoring methodology and statement of qualification evaluations are public when the Department of Transportation announces the short list of qualified contractors. The technical proposal evaluation criteria, scoring methodology, and technical proposal evaluations are public when the project is awarded.

Sec. 2. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 12. [TRANSPORTATION DEPARTMENT DATA.] When the commissioner of transportation determines that the design-build best value method of project delivery is appropriate for a project under sections 161.3410 to 161.3428, project right-of-way work maps, commissioner's orders, relocation reports, planimetric files, digital terrain models, preliminary design drawings, requests for proposals, and requests for qualifications are classified as protected nonpublic data with regard to data not on individuals and confidential data on individuals until the department publishes the data as part of the request for proposal process. The commissioner may release design-build data to counties, cities, and other parties under contract to a government entity as necessary to facilitate project development. The released data retain their classification as protected nonpublic data with regard to data not on individuals and confidential data on individuals as provided by section 13.03, subdivision 4, paragraph (c), until the department publishes the data as part of the request for proposal process.

Sec. 3. Minnesota Statutes 2004, section 13.72, is amended by adding a subdivision to read:

Subd. 13. [ACCOUNT DATA.] The following data pertaining to applicants for or users of toll facilities, and high-occupancy vehicle lanes for which a user fee is charged under section 169.03, are classified as nonpublic data with regard to data not on individuals and as private data with regard to data on individuals: data contained in applications for the purchase, lease, or rental of a device such as an electronic vehicle transponder which automatically assesses charges for a vehicle's use of toll roads; personal and vehicle identification data; financial and credit data; and toll road usage data. Nothing in this subdivision prohibits the production of summary data as defined in section 13.02, subdivision 19."

Delete the title and insert:

"A bill for an act relating to government data practices; classifying certain data of the Department of Transportation; amending Minnesota Statutes 2004, section 13.72, by adding subdivisions."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

### **Senator Betzold from the Committee on Judiciary, to which was referred**

**S.F. No. 196:** A bill for an act relating to civil actions; regulating liability on land used for recreational purposes; modifying the definition of recreational purpose; amending Minnesota Statutes 2004, section 604A.21, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 604A.21, subdivision 5, is amended to read:

Subd. 5. [RECREATIONAL PURPOSE.] "Recreational purpose" includes, but is not limited to, hunting; trapping; fishing; swimming; boating; camping; picnicking; hiking; rock climbing;

cave exploring; bicycling; horseback riding; firewood gathering; pleasure driving, including snowmobiling and the operation of any motorized vehicle or conveyance upon a road or upon or across land in any manner, including recreational trail use; nature study; water skiing; winter sports; and viewing or enjoying historical, archaeological, scenic, or scientific sites. "Rock climbing" means the climbing of a naturally exposed rock face. "Cave exploring" means the exploration of naturally occurring cavities in rock, including passage through any safe structures placed for the purpose of access, access control, or conservation, but does not include the exploration of other manmade cavities such as tunnels, mines, and sewers.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to causes of action arising on or after that date."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was referred**

**S.F. No. 1733:** A bill for an act relating to civil actions; providing a factor for determining the amount of attorney fees awarded in certain actions; proposing coding for new law in Minnesota Statutes, chapter 549.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [549.255] [ATTORNEY FEES AWARDS.]

When a statute provides for the award of attorney fees to a party that has recovered money damages, the court, in setting the amount of attorney fees, must, in addition to other factors, including equitable relief, take into consideration the reasonableness of the attorney fees sought in relation to the amount of damages awarded to the prevailing party, the amount of time reasonably expended, a reasonable hourly rate, the outcome obtained, and the nature and complexity of the matter."

Amend the title as follows:

Page 1, line 2, delete "a factor" and insert "factors"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was referred**

**S.F. No. 631:** A bill for an act relating to civil actions; prohibiting actions against certain persons for weight gain as a result of consuming certain foods; proposing coding for new law in Minnesota Statutes, chapter 604.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [604.17] [WEIGHT GAIN CIVIL LIABILITY.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section the following terms have the meanings given.

(b) "Food" means articles used for food or drink for human consumption and articles used for components of any such article. It does not include tobacco or tobacco products.

(c) "Long-term consumption" means the cumulative effect of the consumption of food or nonalcoholic beverages, and not the effect of a single instance of consumption.

(d) "Party" means an individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

Subd. 2. [IMMUNITY FROM CIVIL LIABILITY.] A producer, grower, manufacturer, packer, distributor, carrier, holder, marketer, or seller of a food or nonalcoholic beverage intended for human consumption, or an association of one or more of such entities, shall not be subject to civil liability based on any individual's or group of individuals' purchase or consumption of food or nonalcoholic beverages in cases where liability arises from weight gain, obesity, or a health condition associated with weight gain or obesity and resulting from the individual's or group of individuals' long-term purchase or consumption of a food or nonalcoholic beverage.

Subd. 3. [ACTIONS PERMITTED.] Subdivision 2 does not apply to a claim of weight gain or obesity that is based on:

(1) a material violation of an adulteration or misbranding requirement prescribed by state or federal statute, rule, or regulation and the claimed injury was proximately caused by the violation; or

(2) any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, if the violation is knowing and willful, and the claimed injury was proximately caused by the violation."

And when so amended the bill do pass. Senator Lourey questioned the reference thereon and, under Rule 21, the bill was referred to the Committee on Rules and Administration.

**Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred**

**S.F. No. 1846:** A bill for an act relating to state government; establishing an energy savings program; authorizing the Department of Administration to use energy forward pricing mechanisms for budget risk reduction; amending Minnesota Statutes 2004, section 16C.144; proposing coding for new law in Minnesota Statutes, chapter 16C.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 9, after "GUARANTEED" insert "ENERGY"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was referred**

**S.F. No. 615:** A bill for an act relating to counties; providing for alternative filing of surveys if there is no county surveyor; amending Minnesota Statutes 2004, section 389.08.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 160.15, subdivision 4, is amended to read:

Subd. 4. [FILING OF CERTIFICATE; FEE.] The land surveyor placing and establishing the markers or monuments shall, no later than six months after placing and establishing them, file a certificate to that effect in the office of the county recorder, or in the office of the county surveyor where, if the county maintains a full-time office, in the county or counties wherein in which the markers or monuments were placed. If a county in which the markers or monuments were placed does not have a full-time office of the county surveyor, then the land surveyor shall record the certificate in the office of the county recorder of that county. Each certificate must contain only the record of markers and monuments at one corner. The county recorder may charge a fee of 50 cents for each certificate filed.

[EFFECTIVE DATE; APPLICATION.] This section is effective August 1, 2005, and applies to markers and monuments placed and established on or after that date.

Sec. 2. Minnesota Statutes 2004, section 381.12, subdivision 1, is amended to read:

Subdivision 1. [SURVEYOR, EMPLOYMENT.] When the county board determines that the monuments established by the United States in the public lands survey to mark section, quarter section, and meander corners have been destroyed or are becoming obscure, it may employ a licensed surveyor to preserve, restore and mark the corners with a durable magnetic monument. The surveyor shall make full and accurate notes and records from which the entire survey can be relocated, and shall, no later than six months after preserving, restoring, and marking the corners, file a certified copy of the same, with a plat, in the office of the county recorder or the office of the county surveyor if an office is maintained in a building maintained by the county for county purposes on a full-time basis, and if not, shall record it in the office of the county recorder. The monuments are prima facie evidence of the original United States public land survey corners.

**[EFFECTIVE DATE; APPLICATION.]** This section is effective August 1, 2005, and applies to corners preserved, restored, and marked on or after that date.

Sec. 3. Minnesota Statutes 2004, section 381.12, subdivision 3, is amended to read:

Subd. 3. [U.S. PUBLIC LAND SURVEY MONUMENT RECORD.] (a) A United States public land survey monument record must be prepared as part of any land survey which includes or requires the perpetuation or restoration of a United States public land survey corner and one of the following conditions exists:

(1) there is no United States public land survey monument record for the corner on file in the office of the county surveyor or the county recorder for the county in which the corner is located; or

(2) the land surveyor who performs the survey accepts a position for the United States public land survey corner which differs from that shown on a United States public land survey monument record filed in the office of the county surveyor where the county maintains a full-time office, or in the office of the county recorder for the county in which the corner is located; or

(3) the witness ties referred to in an existing United States public land survey monument record have been destroyed.

(b) A United States public land survey monument record must be prepared on a certificate of location of government corner, as specified in section 160.15, subdivision 5.

(c) A United States public land survey monument record must show the position of the corner and must include all the following elements:

(1) the identity of the corner, as referenced to the United States public land survey system;

(2) a description of any record evidence, monument evidence, occupational evidence, testimonial evidence, or any other material evidence considered by the surveyor, and whether the monument was found or placed;

(3) if possible, reference ties to at least three witness monuments made of concrete, natural stone, iron, or other equally durable material, including trees;

(4) a plan view drawing depicting the relevant monuments and reference ties which is in sufficient detail to enable accurate restoration of the corner position if the corner monument has been disturbed;

(5) a description of any significant discrepancy between the position of the corner as restored and the position of that corner as previously restored;

(6) whether the corner was restored through acceptance of an obliterated evidence position or a found perpetuated position;

(7) whether the corner was restored through lost corner proportionate methods;

(8) the directions and distances to other public land survey corners which were used as evidence or used for proportioning in determining the corner positions; and

(9) the signature of the land surveyor under whose direction and control the corner position was determined and a statement certifying that the United States public land survey monument record is correct and complete to the best of the surveyor's knowledge and belief.

(d) No later than six months after perpetuating or restoring the survey corner, the land surveyor shall file or record the certificate in the same manner as required under subdivision 1.

(e) A reasonable fee for professional services may be paid to the surveyor filing or recording the certificate with the respective county, on approval and determination of the fee by resolution of the county board.

[EFFECTIVE DATE; APPLICATION.] This section is effective August 1, 2005, and applies to corners perpetuated or restored on or after that date.

Sec. 4. Minnesota Statutes 2004, section 389.03, is amended to read:

389.03 [COMPENSATION; RECORDS.]

(a) Except as otherwise provided by law, the county board shall fix the compensation of county surveyors or their deputies, including their necessary expenses. All records of surveys are public records and must be made available by the county surveyor at all reasonable times to inspection by any person. The county board shall, at the expense of the county, provide to the county surveyor all proper and necessary files for keeping these records. The county survey records must be kept in the office of the county surveyor or of the county recorder of the county. If an office for the county surveyor is maintained in a building maintained by the county for county purposes on a full-time basis, then the records shall be kept in the office of the county surveyor.

(b) If a county closes an office of the county surveyor that the county maintained in a building maintained by the county for county purposes on a full-time basis, the county shall transfer all certificates of location of corners filed with that office under section 160.15, subdivision 4, or 381.12, subdivisions 1 and 3, to be recorded in the office of the county recorder.

[EFFECTIVE DATE.] This section is effective August 1, 2005."

Delete the title and insert:

"A bill for an act relating to counties; providing for alternative filing of surveys; modifying requirements for land surveyors; providing for a transfer of records; amending Minnesota Statutes 2004, sections 160.15, subdivision 4; 381.12, subdivisions 1, 3; 389.03."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was referred**

**S.F. No. 1940:** A bill for an act relating to the Metropolitan Airports Commission; requiring senate confirmation for certain appointments; providing term limits for certain members; requiring commissioners to have aviation experience and knowledge; creating a nominating committee; modifying a reporting requirement; amending Minnesota Statutes 2004, sections 473.604, subdivision 1; 473.621, subdivision 1b.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 473.123, subdivision 2a, is amended to read:

Subd. 2a. [TERMS.] Following each apportionment of council districts, as provided under

subdivision 3a, council members must be appointed from newly drawn districts as provided in subdivision 3a. At the time of appointment, each council member, other than the chair, must reside in the council district represented and must have resided in the council district for at least six months and in the state for at least one year immediately preceding the appointment. Each council district must be represented by one member of the council. The terms of members end with the term of the governor, except that all terms expire on the effective date of the next apportionment. A member serves at the pleasure of the governor. A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the governor appoints 16 council members, one from each of the newly drawn council districts as provided under subdivision 3a, to serve terms as provided under this section. The appointment to the council must be made by the first Monday in March of the year in which the term ends.

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

Sec. 2. Minnesota Statutes 2004, section 473.123, subdivision 3, is amended to read:

Subd. 3. **[MEMBERSHIP; APPOINTMENT; QUALIFICATIONS.]** (a) Sixteen members must be appointed by the governor from districts defined by this section. At the time of appointment, each council member must reside in the council district represented and must have resided in the council district for at least six months and in the state for at least one year immediately preceding the appointment. Each council district must be represented by one member of the council.

(b) In addition to the notice required by section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which a member is to be appointed must be notified in writing. The notices must describe the appointments process and invite participation and recommendations on the appointment.

(c) The governor shall create a nominating committee, composed of seven metropolitan citizens appointed by the governor, to nominate persons for appointment to the council from districts. Three of the committee members must be local elected officials. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee shall conduct public meetings, after appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the governor a list of nominees for each appointment. The governor is not required to appoint from the list.

(d) Before making an appointment, the governor shall consult with all members of the legislature from the council district for which the member is to be appointed.

(e) Appointments to the council are subject to the advice and consent of the senate as provided in section 15.066.

(f) Members of the council must be appointed to reflect fairly the various demographic, political, and other interests in the metropolitan area and the districts.

(g) Members of the council must be persons knowledgeable about urban and metropolitan affairs.

(h) Any vacancy in the office of a council member shall immediately be filled for the unexpired term. In filling a vacancy, the governor may forgo the requirements of paragraph (c) if the governor has made appointments in full compliance with the requirements of this subdivision within the preceding 12 months.

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



Sec. 3. Minnesota Statutes 2004, section 473.604, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION.] (a) The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) eight members, appointed by the governor, one from each of the following agency districts:

(i) district A, consisting of council districts 1 and 2;

(ii) district B, consisting of council districts 3 and 4;

(iii) district C, consisting of council districts 5 and 6;

(iv) district D, consisting of council districts 7 and 8;

(v) district E, consisting of council districts 9 and 10;

(vi) district F, consisting of council districts 11 and 12;

(vii) district G, consisting of council districts 13 and 14; and

(viii) district H, consisting of council districts 15 and 16.

At the time of appointment, each member shall be a resident of the district represented and must have been a resident of the district for at least six months and of the state for at least one year immediately preceding the appointment. The terms of the members from districts A, B, F, and H expire on January 1, 2007. The terms of the members from districts C, D, E, and G expire on January 5, 2009. The successors of each member must be appointed to four-year terms. Before making an appointment, the governor shall consult with each member of the legislature from the district for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) four members appointed by the governor from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start on July 1, 1989 one member representing a key airport and one member representing an intermediate airport for terms that expire on January 1, 2007; and one member representing a key airport and one member representing an intermediate airport for terms that expire on January 5, 2009. The successors of each member must be appointed to four-year terms commencing on the first Monday in January of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor. Effective January 2007, the appointment of the chair is subject to the advice and consent of the senate as provided in section 15.066.

(b) The commissioner of transportation shall create a nominating committee, composed of 15 members appointed by the commissioner. The nominating committee consists of: the director of aeronautics, who is the chair; a representative of a major airline at Minneapolis-St. Paul International Airport; a representative of a major airline union at Minneapolis-St. Paul International Airport; a representative of each reliever airport; and a representative of each of the cities of Minneapolis, St. Paul, Richfield, Bloomington, Mendota Heights, and Eagan. The

nominating committee shall oversee the nominating process for the 12 members of the commission appointed by the governor. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee shall conduct public meetings, after appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public. Following the meetings, the committee shall submit to the governor the list of applicants, with comments, for each appointment.

(c) In addition to the notice required by section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts and in aviation oriented publications published in the state. The notices must describe the appointments process and invite participation and recommendations on the appointment.

Sec. 4. Minnesota Statutes 2004, section 473.621, subdivision 1b, is amended to read:

Subd. 1b. [ANNUAL REPORT TO LEGISLATURE.] The corporation shall report to the legislature under section 3.195 and specifically to the house of representatives and senate committees with jurisdiction over aviation issues by February 15 of each year concerning operations at Minneapolis-St. Paul International Airport each airport in the metropolitan airports system. The report must include the number of aircraft operations and passenger enplanements at the airport in the preceding year, current airport capacity in terms of operations and passenger enplanements, average length of delay statistics, and technological developments affecting aviation and their effect on operations and capacity at the airport. The report must include information in all the foregoing categories as it relates to operations at Wayne County Metropolitan Airport in Detroit. The report must compare the number of passenger enplanements and the number of aircraft operations with the 1993 Metropolitan Airports Commission baseline forecasts of total passengers and total aircraft operations. The report must include the commission's proposed operating and capital budgets, capital improvement program, a review of rates and other charges set by the commission, aircraft operations, based aircraft and status of major development programs at each reliever airport.

Amend the title as follows:

Page 1, line 3, delete "for certain"

Page 1, delete lines 4 and 5

Page 1, line 6, delete "experience and knowledge" and insert "of the chair; providing a residency requirement and for terms of office"

Page 1, line 8, after "sections" insert "473.123, subdivisions 2a, 3;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was referred**

**S.F. No. 2057:** A bill for an act relating to environment; modifying advisory boards; eliminating a report; amending Minnesota Statutes 2004, sections 115A.072, subdivision 1; 115A.12; 115A.929.

Reports the same back with the recommendation that the bill be amended as follows:

Page 4, after line 20, insert:

"Sec. 4. Minnesota Statutes 2004, section 115D.04, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATION.] (a) The pollution prevention assistance program must be coordinated with other public and private programs that provide management and technical assistance to eligible recipients.

(b) The director may make grants to public or private entities to operate elements of the program. Grantees shall provide periodic reports on their efforts to assist eligible recipients to reduce pollution.

(c) A person, when operating or participating in elements of the technical assistance program pursuant to a grant or contract with the office under this section or other law, is an employee of the state, certified to be acting within the scope of employment, for purposes of the indemnification provisions of section 3.736, subdivision 9, for claims that arise out of the information, assistance, and recommendations covered by the grant or contract. The state is not obligated to defend or indemnify a grantee or contractor under this subdivision to the extent of the grantee's or contractor's liability insurance. The grantee's or contractor's right to indemnity is not a waiver of limitations, defenses, and immunities available to either the grantee or contractor or the state by law."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "indemnifying participants in pollution prevention assistance program;"

Page 1, line 5, before the period, insert "; 115D.04, subdivision 3"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was referred**

**S.F. No. 2076:** A bill for an act relating to state government; authorizing lease of certain state property under specified conditions.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, delete lines 6 to 9 and insert:

"The commissioner of administration may enter into a lease of up to ten years"

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was referred**

**S.F. No. 1845:** A bill for an act relating to state employment; creating a postretirement employment option; authorizing a voluntary hours reduction plan.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 6, delete "[DEFINITION.]" and insert "[43A.346] [POSTRETIREMENT EMPLOYMENT.]"

Page 1, line 7, before "For" insert "Subdivision 1. [DEFINITION.]" and delete "sections 2 and 3" and insert "this section"

Page 1, line 10, after "Auditor" insert ", or a person employed by the Metropolitan Council"

Page 1, delete line 11

Page 1, line 12, delete "(a)" and insert "Subd. 2. [ELIGIBILITY.]" and after "state" insert "or Metropolitan Council"

Page 1, line 18, after "state" insert "or Metropolitan Council"

Page 1, line 23, delete "state"

Page 2, line 7, after "state" insert "or Metropolitan Council"

Page 2, line 8, delete "(b)" and insert "Subd. 3. [UNCLASSIFIED SERVICE.]"

Page 2, line 12, delete "(c)" and insert "Subd. 4. [ANNUITY REDUCTION NOT APPLICABLE.]"

Page 2, line 18, delete "(d)" and insert "Subd. 5. [APPOINTING AUTHORITY DISCRETION.]"

Page 2, line 28, delete "(e)" and insert "Subd. 6. [DURATION.]"

Page 3, line 6, delete "(f)" and insert "Subd. 7. [COPY TO MSRS.]"

Page 3, line 9, delete "(g)" and insert "Subd. 8. [NO SERVICE CREDIT.]"

Page 3, line 16, delete "(h)" and insert "Subd. 9. [INSURANCE CONTRIBUTION.]"

Page 3, line 19, after "state-paid" insert "or Metropolitan Council-paid"

Page 3, line 27, delete "(i)" and insert "Subd. 10. [SUBSEQUENT EMPLOYMENT.]"

Page 3, line 28, after "state" insert "or Metropolitan Council"

Page 3, line 29, after "state" insert "or Metropolitan Council"

Page 3, line 34, delete "3" and insert "2"

Page 3, line 35, after "(a)" insert "For the purposes of this section, "state employee" has the meaning given it in Minnesota Statutes, section 43A.346."

(b)"

Page 4, line 6, delete "(b)" and insert "(c)"

Page 4, line 7, delete "(a)" and insert "(b)"

Page 4, line 16, delete "(c)" and insert "(d)"

Page 4, line 27, delete "(d)" and insert "(e)"

Page 4, line 35, delete "(e)" and insert "(f)"

Amend the title as follows:

Page 1, line 2, delete "state" and insert "public"

Page 1, line 4, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 43A"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

**Senator Foley from the Committee on Crime Prevention and Public Safety, to which was re-referred**

**S.F. No. 1482:** A bill for an act relating to health; modifying provisions for isolation and quarantine of persons exposed to or infected with a communicable disease; amending Minnesota Statutes 2004, sections 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 5; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 144.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 144.419, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of ~~this section and section 144.4195~~ sections 144.419 to 144.4195, the following definitions apply:

(1) "bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

(2) "communicable disease" means a disease caused by a living organism or virus and believed to be caused by bioterrorism or a new or novel or previously controlled or eradicated infectious agent or biological toxin that can be transmitted person to person and for which isolation or quarantine is an effective control strategy, excluding a disease that is directly transmitted as defined under section 144.4172, subdivision 5;

(3) "isolation" means separation, during the period of communicability, of a person infected with a communicable disease, in a place and under conditions so as to prevent direct or indirect transmission of an infectious agent to others; and

(4) "quarantine" means restriction, during a period of communicability, of activities or travel of an otherwise healthy person who likely has been exposed to a communicable disease to prevent disease transmission during the period of communicability in the event the person is infected.

Sec. 2. Minnesota Statutes 2004, section 144.4195, subdivision 1, is amended to read:

Subdivision 1. [EX PARTE ORDER FOR ISOLATION OR QUARANTINE.] (a) Before isolating or quarantining a person or group of persons, the commissioner of health shall obtain a written, ex parte order authorizing the isolation or quarantine from the District Court of Ramsey County, the county where the person or group of persons is located, or a county adjoining the county where the person or group of persons is located. The evidence or testimony in support of an application may be made or taken by telephone, facsimile transmission, video equipment, or other electronic communication. The court shall grant the order upon a finding that probable cause exists to believe isolation or quarantine is warranted to protect the public health.

(b) The order must state the specific facts justifying isolation or quarantine, must state that the person being isolated or quarantined has a right to a court hearing under this section and a right to be represented by counsel during any proceeding under this section, and must be provided immediately to each person isolated or quarantined. The commissioner of health shall provide a copy of the authorizing order to the commissioner of public safety and other peace officers known to the commissioner to have jurisdiction over the site of the isolation or quarantine. If feasible, the commissioner of health shall give each person being isolated or quarantined an estimate of the expected period of the person's isolation or quarantine.

(c) If it is impracticable to provide individual orders to a group of persons isolated or quarantined, one order shall suffice to isolate or quarantine a group of persons believed to have been commonly infected with or exposed to a communicable disease. A copy of the order and notice shall be posted in a conspicuous place:

(1) in the isolation or quarantine premises, but only if the persons to be isolated or quarantined are already at the isolation or quarantine premises and have adequate access to the order posted there; or

(2) in another location where the group of persons to be isolated or quarantined is located, such that the persons have adequate access to the order posted there.

If the court determines that posting the order according to clause (1) or (2) is impractical due to the

number of persons to be isolated or quarantined or the geographical area affected, the court must use the best means available to ensure that the affected persons are fully informed of the order and notice.

(d) Any peace officer, as defined in section 144.4803, subdivision 16, may use all necessary and lawful means to apprehend, hold, transport, quarantine, or isolate a person subject to the order if the person flees or forcibly resists the officer. This subdivision is authority to carry out enforcement duties under this section. The commissioner or an agent of a local board of health authorized under section 145A.04 shall advise the peace officer on request of protective measures recommended to protect the officer from possible transmission of the communicable disease. The peace officer may act upon telephone, facsimile, or other electronic notification of the order from the court, commissioner of health, agent of a local board of health, or commissioner of public safety.

(e) No person may be isolated or quarantined pursuant to an order issued under this subdivision for longer than 21 days without a court hearing under subdivision 3 to determine whether isolation or quarantine should continue. A person who is isolated or quarantined may request a court hearing under subdivision 3 at any time before the expiration of the order.

Sec. 3. Minnesota Statutes 2004, section 144.4195, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY HOLD UPON COMMISSIONER'S DIRECTIVE.] (a) Notwithstanding subdivision 1, the commissioner of health may by directive isolate or quarantine a person or group of persons without first obtaining a written, ex parte order from the court if a delay in isolating or quarantining the person or group of persons would significantly jeopardize the commissioner of health's ability to prevent or limit the transmission of a communicable or potentially communicable life-threatening disease to others. The directive shall specify the known period of incubation or communicability or the estimated period under the commissioner's best medical judgment when the disease is unknown. The directive remains in effect for the period specified unless amended by the commissioner or superseded by a court order. The commissioner must provide the person or group of persons subject to the temporary hold with notice that the person has a right to request a court hearing under this section and a right to be represented by counsel during a proceeding under this section. If it is impracticable to provide individual notice to each person subject to the temporary hold, notice of these rights may be posted in the same manner as the posting of orders under subdivision 1, paragraph (c). ~~Following the imposition of isolation or quarantine under this subdivision~~ Immediately upon executing the directive and initiating notice of the parties subject to it, the commissioner of health shall within 24 hours initiate the process to apply for a written, ex parte order pursuant to subdivision 1 authorizing the isolation or quarantine. The court must rule within 24 hours of receipt of the application or as soon as practicable thereafter. If the person is under a temporary hold, the person may not be held in isolation or quarantine after the temporary hold expires unless the court issues an ex parte order under subdivision 1. If the court does not rule within 36 hours after the execution of the directive, the directive shall expire.

(b) At the same time the commissioner initiates the process to apply for a written, ex parte order under paragraph (a), the commissioner shall notify the governor, the majority and minority leaders of the senate, the speaker and majority and minority leaders of the house, and the chairs and the ranking minority members of the senate and house committees having jurisdiction over health policy that a directive for a temporary hold has been issued under this subdivision. Notice under this paragraph is governed by the data privacy provisions of section 144.4195, subdivision 6.

(c) Any peace officer, as defined in section 144.4803, subdivision 16, may use all necessary and lawful means to apprehend, hold, transport, quarantine, or isolate a person subject to the commissioner's directive if the person flees or forcibly resists the officer. This subdivision is authority to carry out enforcement duties under this section. The commissioner or an agent of a local board of health authorized under section 145A.04 shall advise the peace officer on request of protective measures recommended to protect the officer from possible transmission of the communicable disease. The peace officer may act upon telephone, facsimile, or other electronic

notification of the order from the court, commissioner of health, agent of a local board of health, or commissioner of public safety.

(d) If a person subject to a commissioner's directive under paragraph (a) is already institutionalized in an appropriate health care facility, the commissioner of health may direct the facility to continue to hold the person. The facility shall take all reasonable measures to prevent the person from exposing others to the communicable disease.

Sec. 4. Minnesota Statutes 2004, section 144.4195, subdivision 5, is amended to read:

Subd. 5. [JUDICIAL PROCEDURES AND DECISIONS.] (a) Court orders issued pursuant to subdivision 3 or 4 shall be based upon clear and convincing evidence and a written record of the disposition of the case shall be made and retained.

(b) Any person subject to isolation or quarantine has the right to be represented by counsel or other lawful representative. Persons not otherwise represented may request the court to appoint counsel at the expense of the Department of Health or of a local public health board that has entered into a written delegation agreement with the commissioner under subdivision 7. The court shall appoint counsel when so requested and may have one counsel represent a group of persons similarly situated. The appointments shall be only for representation under subdivisions 3 and 4 and for appeals of orders under subdivisions 3 and 4. On counsel's request, the commissioner or an agent of a local board of health authorized under section 145A.04 shall advise counsel of protective measures recommended to protect counsel from possible transmission of the communicable disease. Appointments shall be made and counsel compensated according to procedures developed by the Supreme Court. The procedures shall provide standards for determining indigency for purposes of appeal. A person seeking an appeal who does not meet the indigency standard must reimburse the Department of Health or local public health board for the attorney fees and costs incurred in the person's appeal. Counsel appointed for a respondent is not required to pursue an appeal if, in the opinion of counsel, there is insufficient basis for proceeding.

(c) The court may choose to conduct a hearing under subdivision 3 or 4 by telephonic, interactive video, or other electronic means to maintain isolation or quarantine precautions and reduce the risk of spread of a communicable disease. Otherwise, the manner in which the request for a hearing is filed and acted upon shall be in accordance with the existing laws and rules of the courts of this state or, if the isolation or quarantine occurs during a national security or peacetime emergency, any rules that are developed by the courts for use during a national security or peacetime emergency.

Sec. 5. [144.4197] [EMERGENCY VACCINE ADMINISTRATION AND LEGEND DRUG DISPENSING.]

When a mayor, county board chair, or legal successor to such official has declared a local emergency under section 12.29 or the governor has declared an emergency under section 12.31, subdivision 1 or 2, the commissioner of health may authorize any person, including, but not limited to, any person licensed or otherwise credentialed under chapters 144E, 147 to 148, 150A, 151, 153, or 156, to administer vaccinations or dispense legend drugs if the commissioner determines that such action is necessary to protect the health and safety of the public. The authorization shall be in writing and shall contain the categories of persons included in the authorization, any additional training required before performance of the vaccination or drug dispensing by such persons, any supervision required for performance of the vaccination or drug dispensing, and the duration of the authorization. The commissioner may, in writing, extend the scope and duration of the authorization as the emergency warrants. Any person authorized by the commissioner under this section shall not be subject to criminal liability, administrative penalty, professional discipline, or other administrative sanction for good faith performance of the vaccination or drug dispensing duties assigned according to this section.

Sec. 6. Laws 2002, chapter 402, section 21, as amended by Laws 2004, chapter 279, article 11, section 7, is amended to read:

Sec. 21. [SUNSET.]

Sections 1 to 19, 2, 5, 10, and 11 expire August 1, 2005. The other sections expire August 1, 2009.

Sec. 7. [SUNSET.]

Sections 1 to 5 expire August 1, 2009.

Sec. 8. [EFFECTIVE DATE.]

Section 6 is effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred**

**S.F. No. 1298:** A bill for an act relating to environment; enacting the Minnesota Electronics Recycling Act of 2005; authorizing rulemaking; providing penalties; amending Minnesota Statutes 2004, section 16C.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116F.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [116H.55] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of this chapter, the following terms have the meanings given.

Subd. 2. [CATHODE RAY TUBE OR CRT.] "Cathode ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image. It is composed primarily of glass, and is the video display component of a television or computer monitor, and includes other items integrally attached to the CRT.

Subd. 3. [COMPUTER MONITOR.] "Computer monitor" means an electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. Computer monitor includes a laptop computer.

Subd. 4. [FULL TRUCKLOAD.] "Full truckload" means a quantity weighing 25,000 pounds or more of video display devices.

Subd. 5. [HENNEPIN COUNTY STUDY.] "Hennepin County study" means the Hennepin County Consumer Electronics Brand Tally, published January 2005.

Subd. 6. [HOUSEHOLD.] "Household" means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a video display device at a dwelling unit primarily for personal use.

Subd. 7. [INTERMEDIATE CONSOLIDATION POINT.] "Intermediate consolidation point" means a facility in the state approved by the Office of Environmental Assistance pursuant to section 116H.65, paragraph (d), clause (3), where local governments and households can deliver for consolidation video display devices generated by households and destined for recycling, refurbishment, or reuse. The facility may be operated by a private entity or a local unit of government, and must be capable of consolidating a full truckload of video display devices from households in accordance with all applicable federal, state, and local laws, rules, regulations, and ordinances.

Subd. 8. [MANUFACTURER.] "Manufacturer" means a person who: (1) manufactures video display devices to be sold under its own brand as identified by its own brand label; or (2) sells video display devices manufactured by others under its own brand as identified by its own brand label.



Subd. 9. [MANUFACTURER'S BRANDS.] "Manufacturer's brands" means a manufacturer's name, brand name, or brand label, and all manufacturer's names, brand names, and brand labels for which the manufacturer has legal responsibility, including those manufacturer's names, brand names, and brand labels of companies that have been acquired by the manufacturer.

Subd. 10. [OFFICE.] "Office" means the Office of Environmental Assistance.

Subd. 11. [ORPHAN WASTE.] "Orphan waste" means a video display device covered by this section for which (1) no manufacturer can be identified, or (2) the manufacturer no longer exists and no successor can be identified.

Subd. 12. [PRO RATA SHARE.] "Pro rata share" means the percentage that is the proportion, multiplied by 100, of the total weight of video display devices, of the manufacturer's brands registered by a registrant, as required by section 116H.60, paragraph (e), received at intermediate consolidation points divided by the total weight of video display devices received at intermediate consolidation points, as determined by the sampling program at intermediate consolidation points pursuant to section 116H.65, paragraph (d), clause (1). The pro rata share for the first program year shall be based on the Hennepin County study.

Subd. 13. [REGISTRANT.] "Registrant" means a manufacturer that submits the registration required by section 116H.60, paragraph (a), or an independent party that submits the registration required by section 116H.60, paragraph (a), in lieu of a manufacturer.

Subd. 14. [SELL OR SALE.] "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means either inside or outside of the state, by a person who conducts the transaction and controls the delivery of a video display device to a consumer in the state, but does not include a wholesale transaction with a distributor or a retailer.

Subd. 15. [TELEVISION.] "Television" means an electronic device that is a cathode ray tube or flat panel display primarily intended to receive video programming via broadcast, cable, or satellite transmission or video from surveillance or other similar cameras.

Subd. 16. [VIDEO DISPLAY DEVICE.] "Video display device" means a computer monitor or television with a screen size greater than eight inches measured diagonally.

## Sec. 2. [116H.60] [REGISTRATION PROGRAM.]

(a) On and after July 1, 2006, a person may not sell or offer for sale a new video display device to any person in the state unless:

(1) the video display device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and

(2) the video display device is subject to a registration filed by a registrant with the office according to this section, with the registration effective upon receipt by the office.

(b) A person who sells or offers for sale a new video display device to a consumer in this state must, before initial offer for sale of the device, submit to the office a certification that the person has reviewed the office's Web site specified in paragraph (h), and has determined that all new video display devices that the person is then offering for sale are labeled with manufacturer's brands that are subject to registration statements filed with the office. After the initial submittal, the certification must be submitted to the office annually by July 10 of each year, effective as of July 1 of each year.

(c) By February 1, 2006, a manufacturer of video display devices sold to a consumer in this state must submit a registration to the office that includes a certification that a registrant will participate in the intermediate consolidation point program as specified in paragraph (m) beginning July 1, 2006. A manufacturer who begins to sell or offer for sale video display devices after February 1, 2006, and has not filed a registration pursuant to this section must submit a

registration to the office within ten days of beginning to sell or offer for sale video display devices to consumers in the state. The registration is effective upon receipt by the office.

(d) The registration must list the manufacturer's brands. The registration must be updated within ten days after a change in the manufacturer's brands, such as in the event of an acquisition, merger, or divestiture.

(e) A registrant may partner with one or more manufacturers or other parties, collectively a "registrant," to prepare and submit to the office a joint video display device recycling, refurbishment, or reuse program.

(f) The office must set a registration fee, not to exceed \$3,000 per year, the revenues from which are to be used only to pay administrative costs of the program. This fee-setting process is subject to rulemaking under section 14.389.

(g) The office must review each registration and notify the registrant if the registration does not include the information required by this section. Within 30 days of receipt of a notification from the office, the registrant must file with the office a revised registration providing the information noted by the office.

(h) The office must maintain on its Web site the names of the registrants and the manufacturers' brands that are listed in registrations filed with the office. The office must update the Web site information promptly upon receipt of a new registration or an updated registration.

(i) The obligations of a manufacturer or registrant apply only to video display devices received from households in this state and do not apply to video display devices received from owners other than households.

(j) Persons who receive a video display device for recycling, refurbishment, or reuse pursuant to a registration may recycle, refurbish, or reuse, including resell, the video display device. Except to the extent otherwise required by law, such persons have no responsibility for any data that may be on the video display device if an information storage device is included with the video display device.

(k) A city, county, or other public agency may not require households to use the intermediate consolidation point program to recycle their video display devices to the exclusion of other programs legally available. This chapter anticipates that video display device recycling programs, in addition to those provided by manufacturers and registrants under this section, will be available to households in the state. Nothing in this chapter prohibits or restricts any such programs or prohibits or restricts any persons from receiving, storing, transporting, or recycling video display devices.

(l) By October 1 of each year, each registrant must submit a report to the office that describes the implementation of the program during the preceding program year. The program year is July 1 through June 30. The first report must be submitted by October 1, 2007. The report must:

(1) identify the total weight of the video display devices that the registrant has arranged for pickup from intermediate consolidation points during the preceding year, and the total weight of video display devices that the registrant has received from households through other methods during the preceding year and for which the registrant has used such video display devices to satisfy all or a portion of its pro rata share responsibility during the preceding year; and

(2) describe the processes and methods used to recycle, refurbish, or reuse video display devices that the registrant has arranged for pickup from intermediate collection points during the preceding year and that the registrant has received from households through other methods, and for which the registrant has used such video display devices to satisfy all or a portion of its pro rata share responsibility during the preceding year; and, in particular, identify any disassembly, physical recovery operation including crushing, shredding, grinding, or glass to glass recycling, or any other operation that was used and describe where it took place. The report must also discuss whether these activities included procedures described in the United States Environmental Protection Agency's guidelines for the environmentally sound management of electronic equipment.

(m) Participation in the intermediate consolidation point program requires that a registrant must:

(1) arrange for the pickup and recycling of a full truckload or full truckloads of computer monitor video display devices or television video display devices received by intermediate consolidation points after July 1, 2006, up to the registrant's pro rata share of computer monitor video display devices or television video display devices, from intermediate consolidation points, pursuant to rules adopted by the office under section 116H.65, paragraph (e). Registrants are responsible for the costs of pickup and recycling of the video display devices. A registrant may satisfy a portion or all of its pro rata share responsibility by receipt of video display devices from households through other methods if the registrant has not charged for the recycling, refurbishment, or reuse of the video display devices that the registrant has received from households in this state through the other methods. A registrant who intends to satisfy a portion or all of its pro rata share responsibility by receipt of the video display devices from households through other methods must provide the office with a report of its receipt of video display devices through the other methods on a quarterly basis;

(2) arrange for the pickup and recycling of the registrant's pro rata share of orphan waste by weight from intermediate consolidation points, pursuant to rules adopted by the office under section 116H.65, paragraph (e). Registrants are responsible for the costs of pickup and recycling of the video display devices. A registrant may satisfy a portion or all of its additional pro rata share responsibility by receipt of video display devices from households through other methods if the registrant has not charged for the recycling, refurbishment, or reuse of the video display devices that the registrant received from households in this state through the other methods. Collectively, the registrants must arrange for the pickup and recycling of the orphan waste collected during this period.

(n) After receipt of the report required by paragraph (l) to be filed on October 1, 2009, the office must review the performance of the program and may issue performance standards related to the number of units collected per household.

### Sec. 3. [116H.65] [DUTIES OF OFFICE.]

(a) The office must administer and enforce this chapter.

(b) The office must establish procedures for:

(1) receipt and maintenance of the registration statements and certifications filed with the office pursuant to section 116H.60; and

(2) making the statements and certifications easily available to registrants, manufacturers, distributors, retailers, and members of the public.

(c) On or before December 1, 2010, and every three years thereafter, the office must provide a report to the governor and the legislature on the implementation of this chapter. For each of the preceding three program years, the report must discuss the total weight of video display devices received by all registrants from intermediate consolidation points, the total weight of video display devices received by each registrant from intermediate consolidation points, the total weight of video display devices that the registrant has received from households through other methods during the preceding year and which the registrant has used to satisfy all or a portion of its pro rata share responsibility during the preceding year, and a summary of information in the report submitted by registrants pursuant to section 116H.60, paragraph (l). The report must also discuss the various collection programs used to collect video display devices and information received by the office regarding video display devices that are not being collected by the registrants. The report must include a description of enforcement actions under this chapter and information about video display devices, if any, being disposed of in landfills in this state. The office may include in its report other information received by the office regarding the implementation of the chapter.

(d) The office must administer the intermediate consolidation point program.

(1) The office must calculate pro rata shares for video display devices on an annual program

year basis for each registrant. Pro rata shares for the first program year must be determined by the office by May 1, 2006, using the Hennepin County study. For each subsequent year, pro rata shares must be determined by May 1 of the preceding year based upon an annual sampling survey conducted by the office at intermediate consolidation points during that preceding year. The sampling survey must identify televisions and computer monitors separately, and calculate the weight of televisions and computer monitors separately. The office may provide registrants with projections or estimates of the amount by weight of video display devices for which the registrant may be responsible during a given program year.

(2) The office must establish by rule by May 1, 2006, a system to coordinate among registrants pickups from intermediate consolidation points after an intermediate consolidation point has notified the office that a full truckload of video display devices from households has been consolidated. The office must provide a program year accounting of the extent to which each registrant met its pro rata share responsibility as established pursuant to section 116H.60, paragraph (m), and methods for addressing amounts greater than or less than a registrant's pro rata share responsibility that were picked up and recycled by a registrant during the program year.

(3) By February 1, 2006, the office must receive applications for the establishment of intermediate consolidation points. The director must seek to receive at least 15 applications with at least ten of the applications from outside the metropolitan area. By April 30, 2006, the office must establish a list of approved intermediate consolidation points and must provide the list on its Web site. Manufacturers and registrants have no responsibility for any costs of the intermediate consolidation points. Applications for the establishment of intermediate consolidation points must specify any method that will be used to ensure that video display devices will be collected only from households or that video display devices from households will be segregated from other video display devices.

(e) The office may adopt rules for the purpose of administering and enforcing this chapter.

#### Sec. 4. [116H.75] [REQUIREMENTS FOR PURCHASES BY STATE AGENCIES.]

(a) The Department of Administration must ensure that acquisitions of video display devices under chapter 16C are certified by the vendor to be in compliance with section 116H.60.

(b) The bid solicitation documents must specify that the prospective bidder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with paragraph (a) and section 116H.60.

(c) Any person awarded a contract under chapter 16C for purchase or lease of video display devices that is found to be in violation of paragraph (a) or section 116H.60 is subject to the following sanctions:

(1) the contract must be voided;

(2) the contractor is ineligible to bid on any state contract for a period of three years; and

(3) if the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating paragraph (a) or section 116H.60, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit.

#### Sec. 5. [116H.80] [REGULATION OF CRT DEVICES.]

Rules adopted by the office or by the Pollution Control Agency regarding the handling, storage, and treatment of cathode ray tube devices or video display devices being recycled may not be more restrictive than regulations adopted by the United States Environmental Protection Agency. If the United States Environmental Protection Agency adopts regulations under the Resource Conservation and Recovery Act regarding the handling, storage, or treatment of cathode ray tube devices or video display devices being recycled, those regulations are automatically effective in this state on the same date and supersede any rules previously adopted by the office or the Pollution Control Agency regarding the handling, storage, or treatment of cathode ray tube devices or video display devices being recycled.

Sec. 6. [116H.85] [ENFORCEMENT.]

This chapter shall be enforced in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072.

Sec. 7. [116H.90] [LIMITATIONS.]

This chapter expires if a federal law, or combination of federal laws, takes effect that is applicable to all video display devices sold in the United States and establishes a program for the collection and recycling or reuse of video display devices that is applicable to all video display devices discarded by households."

Amend the title as follows:

Page 1, line 4, delete everything after the second semicolon

Page 1, delete line 5

Page 1, line 6, delete "subdivision;"

Page 1, line 7, delete "116F" and insert "116H"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Senator Senjem questioned the reference thereon and, under Rule 21, the bill was referred to the Committee on Rules and Administration.

**Senator Scheid from the Committee on Commerce, to which was referred**

**S.F. No. 664:** A bill for an act relating to alcoholic beverages; allowing a brewer who manufactures beer on the premises where the brewer also holds an on-sale intoxicating liquor license to use wort produced outside Minnesota under certain circumstances; amending Minnesota Statutes 2004, section 340A.301, subdivision 6.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 340A.301, subdivision 6, is amended to read:

Subd. 6. [FEES.] The annual fees for licenses under this section are as follows:

- |   |          |
|---|----------|
| (a) Manufacturers (except as provided<br>in clauses (b) and (c))  | \$15,000 |
| Duplicates  | \$3,000  |
| (b) Manufacturers of wines of not more<br>than 25 percent alcohol by volume   | \$500    |
| (c) Brewers other than those described<br>in clauses (d) and (i)  | \$2,500  |
| (d) Brewers who also hold one or more<br>retail on-sale licenses and who<br>manufacture fewer than 3,500 barrels<br>of malt liquor in a year, at any one<br>licensed premises, <del>using only wort produced<br/>in Minnesota, the entire</del><br>production of which is solely<br>for consumption on tap on the<br>licensed premises or for off-sale<br>from that licensed premises.<br>A brewer licensed under this clause<br>must obtain a separate license |          |

|  |          |
|--|----------|
| for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter | \$500    |
| (e) Wholesalers (except as provided in clauses (f), (g), and (h))  | \$15,000 |
| Duplicates   | \$3,000  |
| (f) Wholesalers of wines of not more than 25 percent alcohol by volume   | \$2,000  |
| (g) Wholesalers of intoxicating malt liquor  | \$600    |
| Duplicates   | \$25     |
| (h) Wholesalers of 3.2 percent malt liquor   | \$10     |
| (i) Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year  | \$150    |

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

Sec. 2. Minnesota Statutes 2004, section 340A.301, subdivision 7, is amended to read:

Subd. 7. [INTEREST IN OTHER BUSINESS.] (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, importer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, importer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in the manufacturer, brewer, importer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

(b) A brewer licensed under subdivision 6, clause (d), may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by a municipality for a restaurant operated in the place of manufacture. Notwithstanding section 340A.405, a brewer who holds an on-sale license issued pursuant to this paragraph may, with the approval of the commissioner, be issued a license by a municipality for off-sale of malt liquor produced and packaged on the licensed premises. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. The malt liquor shall be packaged in 64-ounce containers commonly known as "growlers." The containers shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100. A brewer's total retail sales at on- or off-sale under this paragraph may not exceed 3,500 barrels per year, provided that off-sales may not total more than 50 percent of the brewer's production or 500 barrels, whichever is less. A brewer licensed under subdivision 6, clause (d), may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler, or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer

licensed under subdivision 6, clause (d), may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

- (i) manufacture licensed under subdivision 6, clause (d);
- (ii) manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or
- (iii) manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under subdivision 6, clause (d), on January 1, 1995.

(c) Except as provided in subdivision 7a, no brewer as defined in subdivision 7a or importer may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

Sec. 3. Minnesota Statutes 2004, section 340A.404, subdivision 2, is amended to read:

Subd. 2. [SPECIAL PROVISION; CITY OF MINNEAPOLIS.] (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theater, the Cricket Theatre, the Orpheum Theatre, the State Theatre, and the Historic Pantages Theatre, notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for performances presented by the theaters and to members of the nonprofit corporations holding the licenses and to their guests.

(b) The city of Minneapolis may issue an intoxicating liquor license to 510 Groveland Associates, a Minnesota cooperative, for use by a restaurant on the premises owned by 510 Groveland Associates, notwithstanding limitations of law, or local ordinance, or charter provision.

(c) The city of Minneapolis may issue an on-sale intoxicating liquor license to Zuhrah Shrine Temple for use on the premises owned by Zuhrah Shrine Temple at 2540 Park Avenue South in Minneapolis, and to the American Swedish Institute for use on the premises owned by the American Swedish Institute at 2600 Park Avenue South, notwithstanding limitations of law, or local ordinances, or charter provision relating to zoning or school or church distances.

(d) The city of Minneapolis may issue an on-sale intoxicating liquor license to the American Association of University Women, Minneapolis branch, for use on the premises owned by the American Association of University Women, Minneapolis branch, at 2115 Stevens Avenue South in Minneapolis, notwithstanding limitations of law, or local ordinances, or charter provisions relating to zoning or school or church distances.

(e) The city of Minneapolis may issue an on-sale wine license and an on-sale 3.2 percent malt liquor license to a restaurant located at 5000 Penn Avenue South, and an on-sale wine license and an on-sale malt liquor license to a restaurant located at 1931 Nicollet Avenue South, notwithstanding any law or local ordinance or charter provision.

(f) The city of Minneapolis may issue an on-sale wine license and an on-sale malt liquor license to the Brave New Workshop Theatre located at 3001 Hennepin Avenue South, the Theatre de la Jeune Lune, the Illusion Theatre located at 528 Hennepin Avenue South, the Hollywood Theatre located at 2815 Johnson Street Northeast, the Loring Playhouse located at 1633 Hennepin Avenue South, the Jungle Theater located at 2951 Lyndale Avenue South, Brave New Institute located at 2605 Hennepin Avenue South, the Guthrie Lab located at 700 North First Street, and the Southern Theatre located at 1420 Washington Avenue South, notwithstanding any law or local ordinance or charter provision. The license authorizes sales on all days of the week.

(g) The city of Minneapolis may issue an on-sale intoxicating liquor license to University Gateway Corporation, a Minnesota nonprofit corporation, for use by a restaurant or catering operator at the building owned and operated by the University Gateway Corporation on the University of Minnesota campus, notwithstanding limitations of law, or local ordinance or charter provision. The license authorizes sales on all days of the week.

(h) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theater's concessionaire or operator for a restaurant and catering operator on the premises of the Guthrie Theater, notwithstanding limitations of law, local ordinance, or charter provisions. The license authorizes sales on all days of the week.

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

Sec. 4. Minnesota Statutes 2004, section 340A.418, is amended to read:

340A.418 [WINE TASTINGS.]

Subdivision 1. [DEFINITION.] For purposes of this section, a "wine tasting" is an event of ~~not more than four hours' duration~~ at which persons pay a fee or donation to participate, and are allowed to consume wine by the glass without paying a separate charge for each glass.

Subd. 2. [TASTINGS AUTHORIZED.] (a) A charitable, religious, or other nonprofit organization may conduct a wine tasting of not more than four hours duration on premises the organization owns or leases or has use donated to it, or on the licensed premises of a holder of an on-sale intoxicating liquor license that is not a temporary license, if the organization holds a temporary on-sale intoxicating liquor license under section 340A.404, subdivision 10, and complies with this section. An organization holding a temporary license may be assisted in conducting the wine tasting by another nonprofit organization.

(b) An organization that conducts a wine tasting under this section may use the net proceeds from the wine tasting only for:

(1) the organization's primary nonprofit purpose; or

(2) donation to another nonprofit organization assisting in the wine tasting, if the other nonprofit organization uses the donation only for that organization's primary nonprofit purpose.

(c) No wine at a wine tasting under this section may be sold, or orders taken, for off-premises consumption.

(d) Notwithstanding any other law, an organization may purchase or otherwise obtain wine for a wine tasting conducted under this section from a wholesaler licensed to sell wine, and the wholesaler may sell or give wine to an organization for a wine tasting conducted under this section and may provide personnel to assist in the wine tasting. A wholesaler who sells or gives wine to an organization for a wine tasting under this section must deliver the wine directly to the location where the wine tasting is conducted.

(e) This section does not prohibit or restrict a wine tasting that is:

(1) located on on-sale premises where no charitable organization is participating; or

(2) located on on-sale premises where the proceeds are for a designated charity but where the tasting is primarily for educational purposes.

(f) The four-hour limitation specified in paragraph (a) shall not apply to a wine tasting at a convention of fine wine and gourmet food exhibitors, provided the convention has at least 100 exhibitors and takes place over not more than three days.

Sec. 5. Minnesota Statutes 2004, section 340A.504, subdivision 1, is amended to read:

Subdivision 1. [3.2 PERCENT MALT LIQUOR.] No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and ~~12:00 noon~~ 10:00 a.m. on Sunday, ~~provided that an establishment located on land owned by the Metropolitan Sports Commission, or the sports arena for which one or more licenses have been issued under section 340A.404, subdivision 2, paragraph (c), may sell 3.2 percent malt liquor between 10:00 a.m. and 12:00 noon on a Sunday on which a sports or other event is scheduled to begin at that location on or before 1:00 p.m. of that day.~~



Sec. 6. Minnesota Statutes 2004, section 340A.504, subdivision 3, is amended to read:

Subd. 3. [INTOXICATING LIQUOR; SUNDAY SALES; ON-SALE.] (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of ~~12:00 noon~~ 10:00 a.m. on Sundays and 2:00 a.m. on Mondays.

~~(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell alcoholic beverages for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act.~~

~~(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.~~

~~(d) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e) (d). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.~~

~~(e) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.~~

~~(f) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$50, plus \$20 for each duplicate.~~

Sec. 7. Minnesota Statutes 2004, section 340A.504, subdivision 4, is amended to read:

Subd. 4. [INTOXICATING LIQUOR; OFF-SALE.] No sale of intoxicating liquor may be made by an off-sale licensee:

(1) on Sundays;

(2) before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

~~(3) after 10:00 p.m. on Monday through Saturday at an establishment located in a city other than a city of the first class or within a city located within 15 miles of a city of the first class in the same county;~~

~~(4) after 8:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday at an establishment located in a city of the first class or within a city located within 15 miles of a city of the first class in the same county, provided that an establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3, and on the day preceding Thanksgiving day, unless otherwise prohibited under clause (1);~~

~~(5) on Thanksgiving Day;~~

~~(6) (4) on Christmas Day, December 25; or~~

~~(7) (5) after 8:00 p.m. on Christmas Eve, December 24.~~

Sec. 8. Laws 2000, chapter 440, section 10, is amended to read:

Sec. 10. [WINE LICENSE; MAIN STREET STAGE THEATRE.]

The city of Anoka may issue an on-sale wine and malt liquor license to the Lyric Arts Company of Anoka, Inc. for the Main Street Stage Theatre. The license authorizes sales of wine and malt liquor on all days of the week to holders of tickets for performances at the theater. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized under this section.

**[EFFECTIVE DATE.]** This section is effective on approval by the Anoka City Council and compliance with Minnesota Statutes, section 645.021.

Sec. 9. Laws 2003, chapter 126, section 28, is amended to read:

Sec. 28. [ELKO SPEEDWAY; ON-SALE LICENSE.]

Notwithstanding Minnesota Statutes, section 340A.404, subdivision 1, the city of Elko may issue an on-sale intoxicating liquor license to the Elko Speedway in addition to the number authorized by law. The license may authorize sales only both to persons attending racing any and all events, and sales in a restaurant/bar/banquet facility, at the speedway. The license authorizes sales on all days of the week. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this provision, apply to the license authorized under this section. The license may be issued for a space that is not compact and contiguous, provided that the licensed premises may include only the space within the fenced grandstand area as described in the approved license application.

**[EFFECTIVE DATE.]** This section is effective upon approval by the Elko City Council and compliance with Minnesota Statutes, section 645.021.

Sec. 10. [CITY OF CALEDONIA; LIQUOR LICENSE.]

Notwithstanding any other law, the city of Caledonia may issue an on-sale intoxicating liquor license to Caledonia Area Community Charities, Inc., for the Four Seasons Center in Caledonia. The license authorizes the licensee to dispense intoxicating liquor only to persons attending events at the center. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized under this section.

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

Sec. 11. [DETROIT LAKES; ON-SALE.]

Notwithstanding Minnesota Statutes, section 340A.404, subdivision 1, the city of Detroit Lakes may issue an on-sale intoxicating liquor license, or an on-sale wine license and an on-sale malt liquor license, to the Castaway Inn and Resort located at 1200 East Shore Drive, notwithstanding any law, local ordinance, or charter provision. The license may authorize sales only to persons who are registered guests at the lodging establishment, their invitees, or persons attending the spa, a conference, a meeting, or other events at the lodging establishment. The license authorizes sales on all days of the week.

Sec. 12. [CITY OF DULUTH; ON-SALE LICENSE.]

Notwithstanding any other law, local ordinance, or charter provision, the city of Duluth may issue an on-sale intoxicating liquor license for the premises known and used as the Enger Park Golf Course, or for any portion of the premises as described in the approved license application. The license may be issued to the city or to any person or corporation under contract or agreement with the city with respect to operation of the golf course. All provisions of Minnesota Statutes, chapter 340A, not inconsistent herewith, apply to the license authorized under this section.

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

Sec. 13. [CITY OF EDEN PRAIRIE; ON-SALE LICENSE.]

Notwithstanding any law, local ordinance, or charter provision, the city of Eden Prairie may issue an on-sale intoxicating liquor license to any entity holding an operating food service contract with the city for the operation of the cafeteria, for use by the entity at the premises owned by the

city of Eden Prairie, at 8080 Mitchell Road in Eden Prairie. The license authorizes sales on all days of the week to persons attending special events in the cafeteria. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises unless such dispensing is authorized by resolution of the city council. The license authorized by this subdivision may be issued for space that is not compact and contiguous, provided that all such space is within the City Center building and is included in the description of the licensed premises on the approved license application.

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

Sec. 14. [MANKATO; ON-SALE INTOXICATING LIQUOR LICENSE.]

The city of Mankato may issue an on-sale intoxicating liquor license to the premises known as the Midwest Wireless Civic Center. The license authorizes sales on all days of the week to persons attending events at the center. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized under this section.

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

Sec. 15. [OFF-SALE INTOXICATING LIQUOR LICENSE; MILLE LACS COUNTY.]

Notwithstanding Minnesota Statutes, section 340A.405, subdivision 2, paragraph (e), the Mille Lacs County Board may issue an off-sale intoxicating liquor license to an exclusive liquor store located in Eastside Township. All other provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized under this section.

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

Delete the title and insert:

"A bill for an act relating to alcoholic beverages; modifying brewpub regulations; regulating wine tastings; providing for uniform off-sale hours statewide; regulating Sunday on-sales; authorizing certain on-sale licenses; amending Minnesota Statutes 2004, sections 340A.301, subdivisions 6, 7; 340A.404, subdivision 2; 340A.418; 340A.504, subdivisions 1, 3, 4; Laws 2000, chapter 440, section 10; Laws 2003, chapter 126, section 28."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Lourey from the Committee on Health and Family Security, to which was referred**

**S.F. No. 1029:** A bill for an act relating to health; providing for an optional record of birth resulting in stillbirth; amending Minnesota Statutes 2004, section 144.222, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 144.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [144.2151] [RECORD OF BIRTH RESULTING IN STILLBIRTH.]

Subdivision 1. [FILING.] A record of birth for each birth resulting in a stillbirth in this state, on or after August 1, 2005, for which a fetal death report is required under section 144.222, subdivision 1, shall be filed with the state registrar within five days after the birth if the parent or parents of the stillbirth request to have a record of birth resulting in stillbirth prepared.

Subd. 2. [INFORMATION TO PARENTS.] The party responsible for filing a fetal death report under section 144.222, subdivision 1, shall advise the parent or parents of a stillbirth:

- (1) that they may request preparation of a record of birth resulting in stillbirth;
- (2) that preparation of the record is optional; and

(3) how to obtain a certified copy of the record if one is requested and prepared.

Subd. 3. [PREPARATION.] (a) Within five days after delivery of a stillbirth, the parent or parents of the stillbirth may prepare and file the record with the state registrar if the parent or parents of the stillbirth, after being advised as provided in subdivision 2, request to have a record of birth resulting in stillbirth prepared.

(b) If the parent or parents of the stillbirth do not choose to provide a full name for the stillbirth, the parent or parents may choose to file only a last name.

(c) Either parent of the stillbirth or, if neither parent is available, another person with knowledge of the facts of the stillbirth shall attest to the accuracy of the personal data entered on the record in time to permit the filing of the record within five days after delivery.

Subd. 4. [RETROACTIVE APPLICATION.] Notwithstanding subdivisions 1 to 3, if a birth that occurred in this state at any time resulted in a stillbirth for which a fetal death report was required under section 144.222, subdivision 1, but a record of birth resulting in stillbirth was not prepared under subdivision 3, a parent of the stillbirth may submit to the state registrar, on or after August 1, 2005, a written request for preparation of a record of birth resulting in stillbirth and evidence of the facts of the stillbirth in the form and manner specified by the state registrar. The state registrar shall prepare and file the record of birth resulting in stillbirth within 30 days after receiving satisfactory evidence of the facts of the stillbirth.

Subd. 5. [RESPONSIBILITIES OF STATE REGISTRAR.] The state registrar shall:

(1) prescribe the form of and information to be included on a record of birth resulting in stillbirth, which shall be as similar as possible to the form of and information included on a record of birth;

(2) prescribe the form of and information to be provided by the parent of a stillbirth requesting a record of birth resulting in stillbirth under subdivisions 3 and 4 and make this form available on the Department of Health's Web site;

(3) issue a certified copy of a record of birth resulting in stillbirth to a parent of the stillbirth that is the subject of the record if:

(i) a record of birth resulting in stillbirth has been prepared and filed under subdivision 3 or 4; and

(ii) the parent requesting a certified copy of the record submits the request in writing; and

(4) create and implement a process for entering, preparing, and handling stillbirth records identical or as close as possible to the processes for birth and fetal death records when feasible, but no later than the date on which the next reprogramming of the Department of Health's database for vital records is completed.

Sec. 2. Minnesota Statutes 2004, section 144.212, subdivision 8, is amended to read:

Subd. 8. [VITAL RECORD.] "Vital record" means a record or report of birth, stillbirth, death, marriage, dissolution and annulment, and data related thereto. The birth record is not a medical record of the mother or the child.

Sec. 3. Minnesota Statutes 2004, section 144.222, subdivision 1, is amended to read:

~~Subdivision 1. [FETAL DEATH REPORT REQUIRED.] Each fetal death which occurs in this state shall be reported within five days to the state registrar as prescribed by rule by the commissioner.~~ A fetal death report must be filed within five days of the death of a fetus for whom 20 or more weeks of gestation have elapsed, except for abortions defined under section 145.4241. A fetal death report must be prepared in a format prescribed by the state registrar and filed in accordance with Minnesota Rules, parts 4601.0100 to 4601.2600 by:

(1) a person in charge of an institution or that person's authorized designee if a fetus is delivered in the institution or en route to the institution;

(2) a physician, certified nurse midwife, or other licensed medical personnel in attendance at or immediately after the delivery if a fetus is delivered outside an institution; or

(3) a parent or other person in charge of the disposition of the remains if a fetal death occurred without medical attendance at or immediately after the delivery.

Sec. 4. Minnesota Statutes 2004, section 144.226, subdivision 1, is amended to read:

Subdivision 1. [WHICH SERVICES ARE FOR FEE.] The fees for the following services shall be the following or an amount prescribed by rule of the commissioner:

(a) The fee for the issuance of a certified vital record or a certification that the vital record cannot be found is \$8. No fee shall be charged for a certified birth, stillbirth, or death record that is reissued within one year of the original issue, if an amendment is made to the vital record and if the previously issued vital record is surrendered.

(b) The fee for the replacement of a birth record for all events, except when filing a recognition of parentage pursuant to section 257.73, subdivision 1, is \$20.

(c) The fee for the filing of a delayed registration of birth, stillbirth, or death is \$20.

(d) The fee for the amendment of any vital record when requested more than 45 days after the filing of the vital record is \$20. No fee shall be charged for an amendment requested within 45 days after the filing of the vital record.

(e) The fee for the verification of information from vital records is \$8 when the applicant furnishes the specific information to locate the vital record. When the applicant does not furnish specific information, the fee is \$20 per hour for staff time expended. Specific information includes the correct date of the event and the correct name of the registrant. Fees charged shall approximate the costs incurred in searching and copying the vital records. The fee shall be payable at the time of application.

(f) The fee for issuance of a copy of any document on file pertaining to a vital record or statement that a related document cannot be found is \$8.

Sec. 5. Minnesota Statutes 2004, section 144.226, subdivision 3, is amended to read:

Subd. 3. [BIRTH RECORD SURCHARGE.] In addition to any fee prescribed under subdivision 1, there shall be a nonrefundable surcharge of \$3 for each certified birth or stillbirth record and for a certification that the vital record cannot be found. The local or state registrar shall forward this amount to the commissioner of finance for deposit into the account for the children's trust fund for the prevention of child abuse established under section 119A.12. This surcharge shall not be charged under those circumstances in which no fee for a certified birth or stillbirth record is permitted under subdivision 1, paragraph (a). Upon certification by the commissioner of finance that the assets in that fund exceed \$20,000,000, this surcharge shall be discontinued.

Sec. 6. Minnesota Statutes 2004, section 144.226, subdivision 4, is amended to read:

Subd. 4. [VITAL RECORDS SURCHARGE.] In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of \$2 for each certified and noncertified birth, stillbirth, or death record, and for a certification that the record cannot be found. The local or state registrar shall forward this amount to the commissioner of finance to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth, stillbirth, or death record is permitted under subdivision 1, paragraph (a).

Sec. 7. [REPEALER.]

Minnesota Rules, part 4601.2200, subpart 1, is repealed."

Amend the title as follows:

Page 1, line 4, delete everything after the first comma

Page 1, delete lines 5 and 6 and insert "sections 144.212, subdivision 8; 144.222, subdivision 1; 144.226, subdivisions 1, 3, 4; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Rules, part 4601.2200, subpart 1."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Foley from the Committee on Crime Prevention and Public Safety, to which was re-referred**

**S.F. No. 1483:** A bill for an act relating to health; modifying the Minnesota Emergency Health Powers Act; modifying authority of out-of-state license holders; providing legislative emergency authority; amending Minnesota Statutes 2004, sections 12.03, subdivision 4d, by adding a subdivision; 12.22, subdivision 2a, by adding a subdivision; 12.31, subdivisions 1, 2; 12.32; 12.34, subdivision 1; 12.381; 12.39; 12.42; 13.3806, subdivision 1a; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 12.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 12.03, is amended by adding a subdivision to read:

Subd. 1e. [DECLARED EMERGENCY.] "Declared emergency" means a national security or peacetime emergency declared by the governor under section 12.31.

Sec. 2. Minnesota Statutes 2004, section 12.03, subdivision 4d, is amended to read:

Subd. 4d. [FACILITY.] "Facility" means any real property, building, structure, or other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means of transportation. Facility does not include a private residence but may include a licensed health care facility only when other alternatives are not feasible.

Sec. 3. Minnesota Statutes 2004, section 12.22, subdivision 2a, is amended to read:

Subd. 2a. [VOLUNTEER ASSISTANCE PROTECTIONS.] (a) Individuals who volunteer to assist a local political subdivision during an emergency or disaster, who register with that subdivision, and who are under the direction and control of that subdivision, are considered an employee of that subdivision.

(b) Individuals who volunteer to assist the state during an emergency or disaster, who register with a state agency, and who are under the direction and control of the state agency are considered an employee of the state.

Sec. 4. Minnesota Statutes 2004, section 12.22, is amended by adding a subdivision to read:

Subd. 4. [OTHER LAW PRESERVED.] Nothing in this chapter shall be construed to remove any immunity from, defense to, or limitation on liability provided by the Minnesota Tort Claims Act, the Municipal Tort Claims Act, or other law.

Sec. 5. Minnesota Statutes 2004, section 12.31, subdivision 1, is amended to read:

Subdivision 1. [DECLARATION OF NATIONAL SECURITY EMERGENCY.] When information from the President of the United States, the Federal Emergency Management Agency, the Department of Defense, or the National Warning System indicates the imminence of a national security emergency within the United States, which means the several states, the District of Columbia, and the Commonwealth of Puerto Rico, or the occurrence within the state of Minnesota of a major disaster or ~~public health emergency~~ from enemy sabotage or other hostile action, the governor may, by proclamation, declare that a national security emergency exists in all or any part

of the state. If the legislature is then in regular session or, if it is not, if the governor concurrently with the proclamation declaring the emergency issues a call convening immediately both houses of the legislature, the governor may exercise for a period not to exceed 30 days the powers and duties conferred and imposed by sections 12.31 to 12.37 and 12.381. The lapse of these emergency powers does not, as regards any act occurring or committed within the 30-day period, deprive any person, political subdivision, municipal corporation, or body politic of any right to compensation or reimbursement that it may have under this chapter.

Sec. 6. Minnesota Statutes 2004, section 12.31, subdivision 2, is amended to read:

Subd. 2. [DECLARATION OF PEACETIME EMERGENCY.] (a) The governor may declare a peacetime emergency. A peacetime declaration of emergency may be declared only when an act of nature, a technological failure or malfunction, a terrorist incident, ~~a public health emergency~~, an industrial accident, a hazardous materials accident, or a civil disturbance endangers life and property and local government resources are inadequate to handle the situation. If the peacetime emergency occurs on Indian lands, the governor or state director of emergency management shall consult with tribal authorities before the governor makes such a declaration. Nothing in this section shall be construed to limit the governor's authority to act without such consultation when the situation calls for prompt and timely action. When the governor declares a peacetime emergency, the governor must immediately notify the majority and minority leaders of the senate and the speaker and majority and minority leaders of the house of representatives. A peacetime emergency must not be continued for more than five days unless extended by resolution of the Executive Council up to 30 days. An order, or proclamation declaring, continuing, or terminating an emergency must be given prompt and general publicity and filed with the secretary of state.

~~(b) This paragraph applies to a peacetime emergency declared as a result of a public health emergency. If the legislature is sitting in session at the time of the emergency declaration, the governor may exercise the powers and duties conferred by this chapter for the period allowed under paragraph (a). If the legislature is not sitting in session when a peacetime emergency is declared or renewed, the governor may exercise the powers and duties conferred by this chapter for the period allowed under paragraph (a) only if the governor issues a call convening both houses of the legislature at the same time the governor declares or renews the peacetime emergency. By majority vote of each house of the legislature, the legislature may terminate a peacetime emergency extending beyond 30 days. If the governor determines a need to extend the peacetime emergency declaration beyond 30 days and the legislature is not sitting in session, the governor must issue a call immediately convening both houses of the legislature.~~

Sec. 7. Minnesota Statutes 2004, section 12.32, is amended to read:

#### 12.32 [GOVERNOR'S ORDERS AND RULES, EFFECT.]

Orders and rules promulgated by the governor under authority of section 12.21, subdivision 3, clause (1), when approved by the Executive Council and filed in the Office of the Secretary of State, have, during a national security emergency, peacetime emergency ~~declared due to a public health emergency~~, or energy supply emergency, the full force and effect of law. Rules and ordinances of any agency or political subdivision of the state inconsistent with the provisions of this chapter or with any order or rule having the force and effect of law issued under the authority of this chapter, is suspended during the period of time and to the extent that the emergency exists.

Sec. 8. Minnesota Statutes 2004, section 12.34, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY POWERS.] When necessary to save life, property, or the environment during a national security emergency or during a peacetime emergency ~~declared due to a public health emergency~~, the governor, the state director, or a member of a class of members of a state or local emergency management organization designated by the governor, may:

(1) require any person, except members of the federal or state military forces and officers of the state or a political subdivision, to perform services for emergency management purposes as directed by any of the persons described above; and

(2) commandeer, for emergency management purposes as directed by any of the persons described above, any motor vehicles, tools, appliances, medical supplies, or other personal property and any facilities.

Sec. 9. Minnesota Statutes 2004, section 12.381, is amended to read:

12.381 [SAFE DISPOSITION OF DEAD HUMAN BODIES.]

Subdivision 1. [POWERS FOR SAFE DISPOSITION.] Notwithstanding chapter 149A and Minnesota Rules, chapter 4610, in connection with deaths related to a ~~public health declared emergency and during a national security emergency declared due to a public health emergency or peacetime emergency declared due to a public health emergency~~, the governor may:

(1) direct measures to provide for the safe disposition of dead human bodies as may be reasonable and necessary for emergency response. Measures may include, but are not limited to, transportation, preparation, temporary mass burial and other interment, disinterment, and cremation of dead human bodies. Insofar as the emergency circumstances allow, the governor shall respect the religious rites, cultural customs, family wishes, and predeath directives of a decedent concerning final disposition. The governor may limit visitations or funeral ceremonies based on public health risks;

(2) consult with coroners and medical examiners, take possession or control of any dead human body, and order an autopsy of the body; and

(3) request any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, or otherwise provide for disposition of a dead human body under the laws of this state to accept any dead human body or provide the use of its business or facility if the actions are reasonable and necessary for emergency management purposes and are within the safety precaution capabilities of the business or facility.

Subd. 2. [IDENTIFICATION OF BODIES; DATA CLASSIFICATION.] (a) A person in charge of the body of a person believed to have died due to a ~~public health declared emergency~~ shall maintain a written record of the body and all available information to identify the decedent, the circumstances of death, and disposition of the body. If a body cannot be identified, a qualified person shall, prior to disposition and to the extent possible, take fingerprints and one or more photographs of the remains and collect a DNA specimen from the body.

(b) All information gathered under this subdivision, other than data required for a death certificate under Minnesota Rules, part 4601.2550, shall be death investigation data and shall be classified as nonpublic data according to section 13.02, subdivision 9, or as private data on decedents according to section 13.10, subdivision 1. Death investigation data are not medical examiner data as defined in section 13.83. Data gathered under this subdivision shall be promptly forwarded to the commissioner of health. The commissioner may only disclose death investigation data to the extent necessary to assist relatives in identifying decedents or for public health or public safety investigations.

Sec. 10. Minnesota Statutes 2004, section 12.39, is amended to read:

12.39 [INDIVIDUAL TESTING OR TREATMENT; NOTICE, REFUSAL, CONSEQUENCE.]

Subdivision 1. [REFUSAL OF TREATMENT.] Notwithstanding laws, rules, or orders made or promulgated in response to a national security emergency, or peacetime emergency, ~~or public health emergency~~, individuals have a fundamental right to refuse medical treatment, testing, physical or mental examination, vaccination, participation in experimental procedures and protocols, collection of specimens, and preventive treatment programs. An individual who has been directed by the commissioner of health to submit to medical procedures and protocols because the individual is infected with or reasonably believed by the commissioner of health to be infected with or exposed to a toxic agent that can be transferred to another individual or a communicable disease, and the agent or communicable disease is the basis for which the national security emergency, or peacetime emergency, ~~or public health emergency~~ was declared, and who



refuses to submit to them may be ordered by the commissioner to be placed in isolation or quarantine according to parameters set forth in sections 144.419 and 144.4195.

Subd. 2. [INFORMATION GIVEN.] ~~Where feasible,~~ Before performing examinations, testing, treatment, or vaccination of an individual under subdivision 1, a health care provider shall notify the individual of the right to refuse the examination, testing, treatment, or vaccination, and the consequences, including isolation or quarantine, upon refusal.

Sec. 11. Minnesota Statutes 2004, section 12.42, is amended to read:

12.42 [OUT-OF-STATE LICENSE HOLDERS; POWERS, DUTIES.]

~~During an a declared emergency or disaster,~~ a person who holds a license, certificate, or other permit issued by a state of the United States, the District of Columbia, or a province of Canada evidencing the meeting of qualifications for professional, mechanical, or other skills, may render aid involving those skills in this state ~~when such aid is requested by the governor to meet the needs of the emergency.~~ The license, certificate, or other permit of the person, while rendering aid, has the same force and effect as if issued in this state, subject to such limitations and conditions as the governor may prescribe.

Sec. 12. [12.61] [HOSPITAL OR MEDICAL TRANSPORT CAPACITIES EXCEEDED; RESPONDER LIABILITY LIMITATION.]

Subdivision 1. [DEFINITIONS.] For purposes of this section:

(1) "emergency plan" includes:

(i) any plan for managing an emergency threatening public health developed by the commissioner of health or a local public health agency;

(ii) any plan for managing an emergency threatening public health developed by one or more hospitals, clinics, nursing homes, or other health care facilities or providers and approved by the commissioner of health or local public health agency in consultation with emergency management officials; or

(iii) any provision for assistance by out-of-state responders under interstate or international compacts, including but not limited to the Emergency Management Assistance Compact.

Emergency plans shall, so far as practicable, include provisions for protecting children, the elderly, persons with disabilities, and persons with limited English proficiency;

(2) "regional hospital system" means all hospitals in one of the hospital bioterrorism preparedness program geographic regions of the state set forth in the most recent hospital preparedness plan available on the Department of Health Web site at [www.health.state.mn.us/oe/p](http://www.health.state.mn.us/oe/p); and

(3) "responder" means any person or organization whether paid or volunteer that provides health care or other health-related services in an emergency including, but not limited to, physicians, physician assistants, registered and other nurses, certified nursing assistants, or other staff within a health care provider organization, pharmacists, chiropractors, dentists, emergency medical technicians, members of a specialized medical response unit, laboratory technicians, morticians, registered first responders, mental health professionals, hospitals, nursing and boarding care facilities, home health care agencies, other long-term care providers, medical and dental clinics, and medical laboratories and including, but not limited to, ambulance service personnel and dispatch services and persons not registered as first responders but affiliated with a medical response unit and dispatched to the scene of an emergency by a public safety answering point or licensed ambulance service.

Subd. 2. [EMERGENCY EXECUTIVE ORDER.] (a) During a national security emergency or a peacetime emergency declared under section 12.31, the governor may issue an emergency executive order upon finding that the number of seriously ill or injured persons exceeds the

emergency hospital or medical transport capacity of one or more regional hospital systems and that care for those persons has to be given in temporary care facilities.

(b) During the effective period of the emergency executive order, a responder in any impacted region acting consistent with emergency plans is not liable for any civil damages or administrative sanctions as a result of good-faith acts or omissions by that responder in rendering emergency care, advice, or assistance. This section does not apply in case of malfeasance in office or willful or wanton actions.

Sec. 13. Minnesota Statutes 2004, section 13.3806, subdivision 1a, is amended to read:

Subd. 1a. [DEATH INVESTIGATION DATA.] Data gathered by the commissioner of health to identify the body of a person believed to have died due to a public health declared emergency as defined in section 12.03, subdivision 9a 1e, the circumstances of death, and disposition of the body are classified in and may be released according to section 12.381, subdivision 2.

Sec. 14. Laws 2002, chapter 402, section 21, as amended by Laws 2004, chapter 279, article 11, section 7, is amended to read:

Sec. 21. [SUNSET.]

Sections ~~1 to 19~~, 2, 5, 10, and 11 expire August 1, 2005. The other sections expire August 1, 2009.

Sec. 15. [SUNSET.]

Sections 1 to 13 expire August 1, 2009.

Sec. 16. [EFFECTIVE DATE.]

Section 14 is effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred**

**S.F. No. 1663:** A bill for an act relating to public safety; requiring courts to determine if a person has a criminal history when the person applies for a name change; amending Minnesota Statutes 2004, section 259.11.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL PROVISIONS

Section 1. Minnesota Statutes 2004, section 259.11, is amended to read:

259.11 [ORDER; FILING COPIES.]

(a) Upon meeting the requirements of section 259.10, the court shall grant the application unless: (1) it finds that there is an intent to defraud or mislead; (2) section 259.13 prohibits granting the name change; or (3) in the case of the change of a minor child's name, the court finds that such name change is not in the best interests of the child. The court shall set forth in the order the name and age of the applicant's spouse and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and the spouse and children, if any, claim to have an interest. The court administrator shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the applicant, with the county recorder of each county wherein any of the same are situated. Before

doing so the court administrator shall present the same to the county auditor who shall enter the change of name in the auditor's official records and note upon the instrument, over an official signature, the words "change of name recorded." Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the county recorder and court administrator the fee required by law. No application shall be denied on the basis of the marital status of the applicant.

(b) When a person applies for a name change, the court shall determine whether the person has ~~been convicted of a felony~~ a criminal history in this or any other state. The court may conduct a search of national records through the FBI by submitting a set of fingerprints and the appropriate fee to the Bureau of Criminal Apprehension. If so it is determined that the person has a criminal history in this or any other state, the court shall, within ten days after the name change application is granted, report the name change to the Bureau of Criminal Apprehension. The person whose name is changed shall also report the change to the Bureau of Criminal Apprehension within ten days. The court granting the name change application must explain this reporting duty in its order. Any person required to report the person's name change to the Bureau of Criminal Apprehension who fails to report the name change as required under this paragraph is guilty of a gross misdemeanor.

Sec. 2. Minnesota Statutes 2004, section 299C.095, subdivision 1, is amended to read:

Subdivision 1. [ACCESS TO DATA ON JUVENILES.] (a) The bureau shall administer and maintain the computerized juvenile history record system based on sections 260B.171 and 260C.171 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in sections 260B.171 and 260C.171 or under court rule, to public defenders as provided in section 611.272, and to criminal justice agencies in other states in the conduct of their official duties.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile adjudication history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 299C.62 or 624.713. If the background check is performed under section 299C.62, juvenile adjudication history disseminated under this paragraph is limited to offenses that would constitute a background check crime as defined in section 299C.61, subdivision 2. A consent for release of information from an individual who is the subject of a juvenile adjudication history is not effective and the bureau shall not release a juvenile adjudication history record and shall not release information in a manner that reveals the existence of the record. Data maintained under section 243.166, released in conjunction with a background check, regardless of the age of the offender at the time of the offense, does not constitute releasing information in a manner that reveals the existence of a juvenile adjudication history.

Sec. 3. Minnesota Statutes 2004, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED FINGERPRINTING.] (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;

(2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;

(3) persons reasonably believed by the arresting officer to be fugitives from justice;

(4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; and

(5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense; and

(6) persons currently involved in the criminal justice process, on probation, on parole, or in custody for the offenses in suspense whom the superintendent of the bureau identifies as being the subject of a court disposition record which cannot be linked to an arrest record, and whose fingerprints are necessary in order to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in post-arrest interviews; while making court appearances; while in custody; or while on any form of probation, diversion, or supervised release.

(b) Unless the superintendent of the bureau requires a shorter period, within 24 hours the fingerprint records and other identification data specified under paragraph (a) must be forwarded to the bureau on such forms and in such manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers and their agents, employees, and subordinates, shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). Law enforcement may take fingerprints of an individual who is presently on probation.

(d) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

Sec. 4. Minnesota Statutes 2004, section 299C.10, is amended by adding a subdivision to read:

Subd. 1a. [COURT DISPOSITION RECORD IN SUSPENSE; FINGERPRINTING.] The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.

Sec. 5. Minnesota Statutes 2004, section 299C.11, is amended to read:

299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

(a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest. When the bureau learns that an individual who is the subject of a background check has used, or is using, identifying information, including, but not limited to, name and date of birth, other than those listed on the criminal history, the bureau may add the new identifying information to the criminal history when supported by fingerprints.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

(iii) an order of discharge under section 609.165; or

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

Sec. 6. Minnesota Statutes 2004, section 299C.14, is amended to read:

299C.14 [INFORMATION ON RELEASED PRISONER.]

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, distinctive physical mark identification data, other identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service and the time, terms, and conditions of their discharge. This duty to furnish information includes, but is not limited to, requests for fingerprints as the superintendent of the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111 relating to the reduction of the number of suspense files where a disposition record is received that cannot be linked to an arrest record.

Sec. 7. Minnesota Statutes 2004, section 299C.145, subdivision 3, is amended to read:

Subd. 3. [AUTHORITY TO ENTER OR RETRIEVE DATA.] Only ~~law enforcement~~ criminal justice agencies, as defined in section 299C.46, subdivision 2, may submit data to and obtain data from the distinctive physical mark identification system.

Sec. 8. Minnesota Statutes 2004, section 326.3384, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITION.] No license holder or employee of a license holder shall, in a manner that implies that the person is an employee or agent of a governmental agency, display on

a badge, identification card, emblem, vehicle, uniform, stationery, or in advertising for private detective or protective agent services:

(1) the words "public safety," "police," "constable," "highway patrol," "state patrol," "sheriff," "trooper," or "law enforcement"; or

(2) the name of a municipality, county, state, or of the United States, or any governmental subdivision thereof.

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

Sec. 9. Minnesota Statutes 2004, section 609.763, subdivision 3, is amended to read:

Subd. 3. [AGGREGATION; JURISDICTION.] In a prosecution under this section, the dollar amounts ~~obtained~~ involved in violation of subdivision 1 within any 12-month period may be aggregated and the defendant charged accordingly. When two or more offenses are committed by the same person in two or more counties, the defendant may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

Sec. 10. Minnesota Statutes 2004, section 611A.01, is amended to read:

611A.01 [DEFINITIONS.]

For the purposes of sections 611A.01 to 611A.06:

(a) "crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125. ~~If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin.~~ The term "victim" includes the family members, guardian or custodian of a minor, incompetent, incapacitated, or deceased person. In a case where the prosecutor finds that the number of family members makes it impracticable to accord all of the family members the rights described in sections 611A.02 to 611A.0395, the prosecutor shall establish a reasonable procedure to give effect to those rights. The procedure may not limit the number of victim impact statements submitted to the court under section 611A.038. The term "victim" does not include the person charged with or alleged to have committed the crime; and

(c) "juvenile" has the same meaning as given to the term "child" in section 260B.007, subdivision 3.

## ARTICLE 2

### FIRE MARSHAL PROVISIONS

Section 1. Minnesota Statutes 2004, section 84.362, is amended to read:

84.362 [REMOVAL OF STRUCTURES.]

Until after the sale of any parcel of tax-forfeited land, whether classified as agricultural or nonagricultural hereunder, the county auditor may, with the approval of the commissioner, provide:

(1) for the sale or demolition of any structure located ~~thereon, which on the land that has been determined by the county board to be within the purview of section 299F.10,~~ especially liable to

fire or so situated as to endanger life or limb or other buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electric wiring, any gas connection, heating apparatus, or other defect; and

(2) for the sale of salvage material, if any, therefrom.

Sec. 2. Minnesota Statutes 2004, section 282.04, subdivision 2, is amended to read:

Subd. 2. [RIGHTS BEFORE SALE; IMPROVEMENTS, INSURANCE, DEMOLITION.] (a) Before the sale of a parcel of forfeited land the county auditor may, with the approval of the county board of commissioners, provide for the repair and improvement of any building or structure located upon the parcel, and may provide for maintenance of tax-forfeited lands, if it is determined by the county board that such repairs, improvements, or maintenance are necessary for the operation, use, preservation, and safety of the building or structure.

(b) If so authorized by the county board, the county auditor may insure the building or structure against loss or damage resulting from fire or windstorm, may purchase workers' compensation insurance to insure the county against claims for injury to the persons employed in the building or structure by the county, and may insure the county, its officers and employees against claims for injuries to persons or property because of the management, use, or operation of the building or structure.

(c) The county auditor may, with the approval of the county board, provide:

(1) for the demolition of the building or structure, which has been determined by the county board to be ~~within the purview of section 299F.10, especially liable to fire or so situated as to endanger life or limb or other buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electric wiring, any gas connection, heating apparatus, or other defect; and~~

(2) for the sale of salvaged materials from the building or structure.

(d) The county auditor, with the approval of the county board, may provide for the sale of abandoned personal property. The sale may be made by the sheriff using the procedures for the sale of abandoned property in section 345.15 or by the county auditor using the procedures for the sale of abandoned property in section 504B.271. The net proceeds from any sale of the personal property, salvaged materials, timber or other products, or leases made under this law must be deposited in the forfeited tax sale fund and must be distributed in the same manner as if the parcel had been sold.

(e) The county auditor, with the approval of the county board, may provide for the demolition of any structure on tax-forfeited lands, if in the opinion of the county board, the county auditor, and the land commissioner, if there is one, the sale of the land with the structure on it, or the continued existence of the structure by reason of age, dilapidated condition or excessive size as compared with nearby structures, will result in a material lessening of net tax capacities of real estate in the vicinity of the tax-forfeited lands, or if the demolition of the structure or structures will aid in disposing of the tax-forfeited property.

(f) Before the sale of a parcel of forfeited land located in an urban area, the county auditor may with the approval of the county board provide for the grading of the land by filling or the removal of any surplus material from it. If the physical condition of forfeited lands is such that a reasonable grading of the lands is necessary for the protection and preservation of the property of any adjoining owner, the adjoining property owner or owners may apply to the county board to have the grading done. If, after considering the application, the county board believes that the grading will enhance the value of the forfeited lands commensurate with the cost involved, it may approve it, and the work must be performed under the supervision of the county or city engineer, as the case may be, and the expense paid from the forfeited tax sale fund.

Sec. 3. Minnesota Statutes 2004, section 299F.011, subdivision 7, is amended to read:

Subd. 7. [FEES.] ~~A fee of \$100 shall be charged by~~ The state fire marshal shall charge a fee of \$100 for each plan review involving:

- (1) flammable liquids ~~under Minnesota Rules, part 7510.3650;~~
- (2) motor vehicle fuel-dispensing stations ~~under Minnesota Rules, part 7510.3610;~~ or
- (3) liquefied petroleum gases ~~under Minnesota Rules, part 7510.3670.~~

Sec. 4. Minnesota Statutes 2004, section 299F.014, is amended to read:

299F.014 [RULES FOR CERTAIN PETROLEUM STORAGE TANKS; TANK VEHICLE PARKING.]

(a) Any rule of the commissioner of public safety that adopts provisions of the Uniform State Fire Code relating to aboveground tanks for petroleum storage that are not used for dispensing to the public is superseded by Minnesota Rules, chapter 7151, in regard to: secondary containment, substance transfer areas, tank and piping standards, overfill protection, corrosion protection, leak detection, labeling, monitoring, maintenance, record keeping, and decommissioning. If Minnesota Rules, chapter 7151, does not address an issue relating to aboveground tanks for petroleum storage that are not used for dispensing to the public, any applicable provision of the Uniform State Fire Code, 1997 Edition, shall apply applies.

(b) A motorized tank vehicle used to transport petroleum products may be parked within 500 feet of a residence if the vehicle is parked at an aboveground tank facility used for dispensing petroleum into cargo tanks for sale at another location.

Sec. 5. Minnesota Statutes 2004, section 299F.05, is amended to read:

299F.05 [LAW ENFORCEMENT POWERS; INFORMATION SYSTEM.]

Subdivision 1. [INVESTIGATION, ARREST, AND PROSECUTION.] ~~The state fire marshal, On determining that reasonable grounds exist to believe that a violation of sections 609.561 to 609.576 has occurred, or reasonable grounds to believe that some other crime has occurred in connection with a fire investigated pursuant to section 299F.04, the state fire marshal shall so inform the superintendent of the Bureau of Criminal Apprehension. The superintendent law enforcement authority having jurisdiction, who shall cooperate with the fire marshal and local fire officials in further investigating the reported incident in a manner which that may include supervising and directing the subsequent criminal investigation, and taking the testimony on oath of all persons supposed to be cognizant of any facts relating to the matter under investigation. If the superintendent believes~~ On determining that there is evidence sufficient to charge any person with a violation of sections 609.561 to 609.576, or of any other crime in connection with an investigated fire, the superintendent authority having jurisdiction shall arrest or cause have the person to be arrested and charged with the offense and furnish to the proper prosecuting attorney all relevant evidence, together with the copy of all names of witnesses and all the information obtained by the superintendent authority or the state fire marshal, including a copy of all pertinent and material testimony taken in the case.

Subd. 2. [INFORMATION SYSTEM.] ~~The state fire marshal and the superintendent of the Bureau of Criminal Apprehension shall maintain a record of arrests, charges filed, and final disposition of all fires reported and investigated under sections 299F.04 and 299F.05. For this purpose, the Department of Public Safety shall implement a single reporting system shall be implemented by the Department of Public Safety utilizing the systems operated by the fire marshal and the bureau. The system shall~~ must be operated in such a way as to minimize duplication and discrepancies in reported figures.

Sec. 6. Minnesota Statutes 2004, section 299F.06, subdivision 1, is amended to read:

Subdivision 1. [SUMMON WITNESSES; PRODUCE DOCUMENTARY EVIDENCE.] (a) In order to establish if reasonable grounds exist to believe that a violation of sections 609.561 to 609.576, has occurred, or to determine compliance with the Uniform State Fire Code or corrective orders issued thereunder under that code, the state fire marshal and the staff designated by the state fire marshal shall have the power, in any county of the state to, may summon and compel the attendance of witnesses to testify before the state fire marshal, chief assistant fire marshal, or



deputy state fire marshals, and may require the production of any book, paper, or document deemed pertinent. ~~The state fire marshal may also designate certain individuals from fire departments in cities of the first class and cities of the second class as having the powers set forth in this paragraph. These designated individuals may only exercise their powers in a manner prescribed by the state fire marshal. "Fire department" has the meaning given in section 299F.092, subdivision 6. "Cities of the first class" and "cities of the second class" have the meanings given in section 410.01.~~

(b) A summons issued under this subdivision ~~shall~~ must be served in the same manner and have the same effect as ~~subpoenas~~ a subpoena issued from a district courts court. All witnesses ~~shall~~ must receive the same compensation as is paid to witnesses in district courts, which ~~shall~~ must be paid out of the fire marshal fund upon ~~vouchers~~ a voucher certificate signed by the state fire marshal, chief assistant fire marshal, or deputy fire marshal before whom any witnesses ~~shall~~ have attended and this officer shall, at the close of the investigation ~~wherein~~ in which the witness was subpoenaed, certify to the attendance and mileage of the witness, ~~which. This certificate shall~~ must be filed in the Office of the State Fire Marshal. All investigations held by or under the direction of the state fire marshal, or any subordinate, may, in the state fire marshal's discretion, be private and persons other than those required to be present by the provisions of this chapter may be excluded from the place where the investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

Sec. 7. Minnesota Statutes 2004, section 299F.19, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The commissioner of public safety shall adopt rules for the safekeeping, storage, handling, use, or other disposition of ~~flammable liquids, flammable gases, blasting agents, and explosives. Loads carried in or on vehicles transporting such these products upon public highways within this state shall be~~ are governed by the uniform vehicle size and weights provisions in sections 169.80 to 169.88 and the transportation of hazardous materials provisions of section 221.033. ~~The rules for flammable liquids and flammable gases shall be distinguished from each other and from the rules covering other materials subject to regulation under this subdivision.~~

Sec. 8. Minnesota Statutes 2004, section 299F.19, subdivision 2, is amended to read:

Subd. 2. [BLASTING AGENT DEFINED; EXPLOSIVES CLASSIFIED.] (a) For the purposes of this section, ~~and the rules adopted pursuant thereto,~~ the term to this section:

(a) "Blasting agent" means any material or mixture, consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive and in which none of the ingredients is classified as an explosive; providing that, the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined. The term "Blasting agent" does not include flammable liquids or flammable gases.

(b) ~~For the purposes of this section, and the rules adopted pursuant thereto,~~ "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, display fireworks, and class 1.3G fireworks (formerly classified as Class B special fireworks). "Explosive" includes any material determined to be within the scope of United States Code, title 18, chapter 40, and also includes any material classified as an explosive other than consumer fireworks, 1.4G (Class C, Common), by the hazardous materials regulations of the United States Department of Transportation (DOT) in Code of Federal Regulations, title 49.

(c) Explosives are divided into ~~three classes~~ four categories and are defined as follows:

(1) class A explosives: possessing detonating or otherwise maximum hazard, such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, blasting caps, and detonating primers;

(2) class B explosives: possessing flammable hazard, such as propellant explosives (including some smokeless powders), black powder, photographic flash powders, and some special fireworks;

(3) class C explosives: includes certain types of manufactured articles which contain class A, or class B explosives, or both, as components but in restricted quantities.

The term explosive or explosives means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States Department of Transportation. The term explosives includes all material which is classified as class A, class B, and class C explosives by the United States Department of Transportation, and includes, but is not limited to dynamite, black powder, pellet powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord, igniters, and some special fireworks. Commercial explosives are those explosives which are intended to be used in commercial or industrial operation. The term explosives does not include flammable liquids or flammable gases.

(1) High explosive: explosive material, such as dynamite, that can be caused to detonate by means of a number eight test blasting cap when unconfined.

(2) Low explosive: explosive material that will burn or deflagrate when ignited, characterized by a rate of reaction that is less than the speed of sound, including, but not limited to, black powder, safety fuse, igniters, igniter cord, fuse lighters, class 1.3G fireworks (formerly classified as Class B special fireworks), and class 1.3C propellants.

(3) Mass-detonating explosives: division 1.1, 1.2, and 1.5 explosives alone or in combination, or loaded into various types of ammunition or containers, most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, severe concussion, impact, the impulse of an initiating agent, or the effect of a considerable discharge of energy from without. Materials that react in this manner represent a mass explosion hazard. Such an explosive will normally cause severe structural damage to adjacent objects. Explosive propagation could occur immediately to other items of ammunition and explosives stored sufficiently close to and not adequately protected from the initially exploding pile with a time interval short enough so that two or more quantities must be considered as one for quantity-distance purposes.

(4) United Nations/United States Department of Transportation (UN/DOtn) Class 1 explosives: the hazard class of explosives that further defines and categorizes explosives under the current system applied by DOtn for all explosive materials into further divisions as follows, with the letter G identifying the material as a pyrotechnic substance or article containing a pyrotechnic substance and similar materials:

(i) Division 1.1 explosives have a mass explosion hazard. A mass explosion is one that affects almost the entire load instantaneously.

(ii) Division 1.2 explosives have a projection hazard but not a mass explosion hazard.

(iii) Division 1.3 explosives have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.

(iv) Division 1.4 explosives pose a minor explosion hazard. The explosive effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire must not cause virtually instantaneous explosion of almost the entire contents of the package.

(v) Division 1.5 explosives are very insensitive and are comprised of substances that have a mass explosion hazard, but are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport.

(vi) Division 1.6 explosives are extremely insensitive and do not have a mass explosion hazard, comprised of articles that contain only extremely insensitive detonating substances and that demonstrate a negligible probability of accidental initiation or propagation.

Sec. 9. Minnesota Statutes 2004, section 299F.362, subdivision 3, is amended to read:

Subd. 3. [SMOKE DETECTOR FOR ANY DWELLING.] Every dwelling unit within a dwelling shall must be provided with a smoke detector meeting the requirements of Underwriters Laboratories, Inc., ~~or approved by the International Conference of Building Officials~~ the State Fire Code. The detector shall must be mounted in accordance with the rules regarding smoke detector location ~~promulgated~~ adopted under the provisions of subdivision 2. When actuated, the detector shall must provide an alarm in the dwelling unit.

Sec. 10. Minnesota Statutes 2004, section 299F.362, subdivision 4, is amended to read:

Subd. 4. [SMOKE DETECTOR FOR APARTMENT, LODGING HOUSE, OR HOTEL.] Every dwelling unit within an apartment house and every guest room in a lodging house or hotel used for sleeping purposes shall must be provided with a smoke detector conforming to the requirements of Underwriters Laboratories, Inc., ~~or approved by the International Conference of Building Officials~~ the State Fire Code. In dwelling units, detectors shall must be mounted in accordance with the rules regarding smoke detector location ~~promulgated~~ adopted under the provisions of subdivision 2. When actuated, the detector shall must provide an alarm in the dwelling unit or guest room.

Sec. 11. Minnesota Statutes 2004, section 624.22, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS; PERMIT; INVESTIGATION; FEE.] (a) Sections 624.20 to 624.25 do not prohibit the supervised display of fireworks by a statutory or home rule charter city, fair association, amusement park, or other organization, except that:

(1) a fireworks display may be conducted only when supervised by an operator certified by the state fire marshal; and

(2) a fireworks display must either be given by a municipality or fair association within its own limits, or by any other organization, whether public or private, only after a permit for the display has first been secured.

(b) An application for a permit for an outdoor fireworks display must be made in writing to the municipal clerk at least 15 days in advance of the date of the display and must list the name of an operator who is certified by the state fire marshal and will supervise the display. The application must be promptly referred to the chief of the fire department, who shall make an investigation to determine whether the operator of the display is competent and is certified by the state fire marshal, and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The fire chief shall report the results of this investigation to the clerk. If the fire chief reports that the operator is certified, that in the chief's opinion the operator is competent, and that the fireworks display as planned will conform to the safety guidelines of the state fire marshal provided for in paragraph (f), the clerk shall issue a permit for the display when the applicant pays a permit fee.

(c) When the supervised outdoor fireworks display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor, and the auditor shall perform duties imposed by sections 624.20 to 624.25 upon the clerk of the municipality. When an application is made to the auditor, the county sheriff shall perform the duties imposed on the fire chief of the municipality by sections 624.20 to 624.25.

(d) An application for an indoor fireworks display permit must be made in writing to the state fire marshal by the operator of the facility in which the display is to occur at least 15 days in advance of the date of any performance, show, or event which will include the discharge of fireworks inside a building or structure. The application must list the name of an operator who is certified by the state fire marshal and will supervise the display. The state fire marshal shall make an investigation to determine whether the operator of the display is competent and is properly certified and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. If the state fire marshal determines that the operator is certified and competent, that the indoor fireworks display as

planned will conform to the safety guidelines provided for in paragraph (f), and that adequate notice will be given to inform patrons of the indoor fireworks display, the state fire marshal shall issue a permit for the display when the applicant pays an indoor fireworks fee of \$150 and reimburses the fire marshal for costs of inspection. Receipts from the indoor fireworks fee and inspection reimbursements must be deposited in the general fund as a nondedicated receipt. The state fire marshal may issue a single permit for multiple indoor fireworks displays when all of the displays are to take place at the same venue as part of a series of performances by the same performer or group of performers. A copy of the application must be promptly conveyed to the chief of the local fire department, who shall make appropriate preparations to ensure public safety in the vicinity of the display. The operator of a facility where an indoor fireworks display occurs must provide notice in a prominent place as approved by the state fire marshal to inform patrons attending a performance when indoor fireworks will be part of that performance. The state fire marshal may grant a local fire chief the authority to issue permits for indoor fireworks displays. Before issuing a permit, a local fire chief must make the determinations required in this paragraph.

(e) After a permit has been granted under either paragraph (b) or (d), sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable.

(f) The state fire marshal shall adopt and disseminate to political subdivisions rules establishing guidelines on fireworks display safety that are consistent with sections 624.20 to 624.25 and the most recent editions edition of the ~~Minnesota Uniform State Fire Code and the National Fire Protection Association Standards~~, to insure that fireworks displays are given safely. In the guidelines, the state fire marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

#### Sec. 12. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall change the terms "Minnesota Uniform Fire Code" and "Uniform Fire Code" to "State Fire Code" where found in Minnesota Statutes, sections 16B.61, subdivision 2; 126C.10, subdivision 14; 136F.61; 245A.151; 299F.011, subdivisions 1, 4, 4b, 4c, 5, and 6; 299F.013; 299F.015, subdivision 1; 299F.06, subdivision 1; 299F.092, subdivision 6; 299F.093, subdivision 1; 299F.362, subdivision 6; 299F.391, subdivisions 2 and 3; 299M.12; 414.0325, subdivision 5; and 462.3585.

#### Sec. 13. [REPEALER.]

Minnesota Statutes 2004, sections 69.011, subdivision 5; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; and 299F.452, are repealed."

Delete the title and insert:

"A bill for an act relating to public safety; addressing various criminal justice and fire safety initiatives of the Department of Public Safety; amending Minnesota Statutes 2004, sections 84.362; 259.11; 282.04, subdivision 2; 299C.095, subdivision 1; 299C.10, subdivision 1, by adding a subdivision; 299C.11; 299C.14; 299C.145, subdivision 3; 299F.011, subdivision 7; 299F.014; 299F.05; 299F.06, subdivision 1; 299F.19, subdivisions 1, 2; 299F.362, subdivisions 3, 4; 326.3384, subdivision 1; 609.763, subdivision 3; 611A.01; 624.22, subdivision 1; repealing Minnesota Statutes 2004, sections 69.011, subdivision 5; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; 299F.452."

And when so amended the bill do pass. Amendments adopted. Report adopted.

#### **Senator Pogemiller from the Committee on Taxes, to which was referred**

**S.F. No. 1236:** A bill for an act relating to taxation; individual income; providing an income tax checkoff to fund benefits for survivors of law enforcement officers and firefighters and providing

for maintenance of peace officer and firefighter memorials; proposing coding for new law in Minnesota Statutes, chapter 290.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 9, delete "[290.433]" and delete "CHECKOFF" and insert "MEMORIAL AND SURVIVOR ACCOUNT ADVISORY COUNCIL"

Page 1, delete lines 10 to 26

Page 2, delete lines 1 to 20

Page 2, line 23, delete "under this section" and insert "for the maintenance of public safety officer memorials and for the benefit of survivors of Minnesota public safety officers killed in the line of duty"

Page 2, lines 35 and 36, delete "under this section"

Page 3, delete lines 1 to 5

Delete the title and insert:

"A bill for an act relating to public safety; creating a public safety officer memorial and survivor account advisory council."

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations. Amendments adopted. Report adopted.

#### **Senator Pogemiller from the Committee on Taxes, to which was re-referred**

**S.F. No. 467:** A bill for an act relating to local government; exempting certain property in Washington County from condemnation proceedings; designating certain property as a conforming planned unit development for purposes of county zoning controls; providing tax-exempt status for certain real and personal property used for recreational purposes; excluding certain recreational property from the metropolitan regional open space system; prohibiting a county from restricting access to and from certain recreational property; requiring certain duties of the Disabled Veterans Rest Camp in Washington County; amending Minnesota Statutes 2004, sections 272.02, by adding a subdivision; 394.25, by adding a subdivision; 462.357, by adding a subdivision; 473.147, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 to 3, delete sections 2 to 8 and insert:

"[EFFECTIVE DATE.] This section is effective for taxes levied in 2005, payable in 2006, and thereafter.

Sec. 2. [WASHINGTON COUNTY; DISABLED VETERANS REST CAMP.]

Subdivision 1. [DEFINITION.] For the purposes of this section, the "camp" means the Disabled Veterans Rest Camp on Big Marine Lake.

Subd. 2. [LIMITATION ON CONDEMNATION.] Washington County may not, by eminent domain pursuant to Minnesota Statutes, chapter 117, or other law, acquire property included in the camp.

Subd. 3. [ZONING CONTROLS.] The camp is a legal conforming use for purposes of zoning controls. Improvements to the property shall be allowed under the terms of a planned unit development permit.

Subd. 4. [REGIONAL RECREATIONAL OPEN SPACE SYSTEM EXCLUSION.] The camp is excluded from the regional recreational open space system, established under Minnesota Statutes, chapter 473.

Subd. 5. [INGRESS AND EGRESS CONTROLS.] Washington County may not take any action to encumber or restrict ingress or egress to the camp below levels permissible on January 1, 2005.

Subd. 6. [CAMP REQUIREMENTS.] The camp must continue to develop and promote camp features and amenities for veterans who are disabled or have limited physical capabilities. The camp, by terms of separate agreements, must offer Washington County the right of first refusal to purchase the rest camp property if a sale is ever contemplated and provide an easement across the main Veterans Rest Camp Road in order to provide a connection of the north and south areas of the park. The camp shall modify its operating policies and procedures to include provisions for the regular rotation of the use of campsites, cabins, and parking spots for travel trailers, limiting the time that any one veteran can use the cabin and campsites, especially when there is a waiting list of veterans with service-connected disabilities.

[EFFECTIVE DATE.] This section takes effect the day after the governing body of Washington County complies with Minnesota Statutes, section 645.021, subdivision 3.

Subdivision 4 relates to the system maintained in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington under Minnesota Statutes, chapter 473."

Delete the title and insert:

"A bill for an act relating to Washington County; providing conditions for the Disabled Veterans Rest Camp on Big Marine Lake; providing a property tax exemption for certain recreational property; amending Minnesota Statutes 2004, section 272.02, by adding a subdivision."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 128** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

| GENERAL ORDERS |          | CONSENT CALENDAR |          | CALENDAR |          |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No.       | S.F. No. | H.F. No.         | S.F. No. | H.F. No. | S.F. No. |
| 128            | 287      |                  |          |          |          |

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 128 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 128 and insert the language after the enacting clause of S.F. No. 287, the first engrossment; further, delete the title of H.F. No. 128 and insert the title of S.F. No. 287, the first engrossment.

And when so amended H.F. No. 128 will be identical to S.F. No. 287, and further recommends that H.F. No. 128 be given its second reading and substituted for S.F. No. 287, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 742** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
| 742      | 1404     |

**CONSENT CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

**CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1480** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
| 1480     | 1364     |

**CONSENT CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

**CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1922** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
| 1922     | 1768     |

**CONSENT CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

**CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 369** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
| 369      | 393      |

**CONSENT CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

**CALENDAR**

|          |          |
|----------|----------|
| H.F. No. | S.F. No. |
|----------|----------|

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 369 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 369 and insert the language after the enacting clause of S.F. No. 393, the first engrossment; further, delete the title of H.F. No. 369 and insert the title of S.F. No. 393, the first engrossment.

And when so amended H.F. No. 369 will be identical to S.F. No. 393, and further recommends that H.F. No. 369 be given its second reading and substituted for S.F. No. 393, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Betzold from the Committee on Judiciary, to which was referred**

**S.F. No. 1883:** A bill for an act relating to government data practices; providing for classification and dissemination of security information and certain data; amending Minnesota Statutes 2004, sections 13.37, subdivisions 1, 2, 3; 13.591, by adding subdivisions; 16C.06, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 11A.24, subdivision 6, is amended to read:

Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in paragraph (b), the state board may invest funds in:

(1) venture capital investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts through investment in limited partnerships, bank sponsored collective funds, trusts, mortgage participation agreements, and insurance company commingled accounts, including separate accounts;

(3) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940, and closed-end mutual funds listed on an exchange regulated by a governmental agency;

(4) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(5) international securities.

(b) The investments authorized in paragraph (a) must conform to the following provisions:

(1) the aggregate value of all investments made according to paragraph (a), clauses (1) to (4), may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), (3), or (4);

(3) state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), (3), or (4); and

(4) state board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board may not engage in any activity as a limited partner which creates general liability.

(c) All financial, business, or proprietary data collected, created, received, or maintained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are nonpublic data under section 13.02, subdivision 9. As used in this section, "financial, business, or



proprietary data" means data, as determined by the responsible authority for the state board: (i) that is of a financial, business, or proprietary nature; and (ii) the release of which could cause competitive harm to the state board, the legal entity in which the state board has invested or has considered an investment, the managing entity of an investment, or a portfolio company in which the legal entity holds an interest. As used in this section, "business data" is data described in section 13.591, subdivision 1. Regardless of whether they could be considered financial, business, or proprietary data, the following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are public at all times:

(1) the name and industry group classification of the legal entity in which the state board has invested or in which the state board has considered an investment;

(2) the state board commitment amount, if any;

(3) the funded amount of the state board's commitment to date, if any;

(4) the market value of the investment by the state board;

(5) the state board's internal rate of return for the investment, including expenditures and receipts used in the calculation of the investment's internal rate of return; and

(6) the age of the investment in years.

Sec. 2. Minnesota Statutes 2004, section 13.37, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. "Security information" includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers.

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(c) "Labor relations information" means management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

(d) "Parking space leasing data" means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, work telephone number, and location of the parking space.

~~(e) "Internal competitive proposal" means a proposal to provide government services that is prepared by the staff of a political subdivision in competition with proposals solicited by the political subdivision from the private sector.~~

Sec. 3. Minnesota Statutes 2004, section 13.37, subdivision 2, is amended to read:

Subd. 2. [CLASSIFICATION.] The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information;

trade secret information; sealed absentee ballots prior to opening by an election judge; sealed bids, including the number of bids received, prior to the opening of the bids; ~~internal competitive proposals prior to the time specified by a political subdivision for the receipt of private sector proposals for the services;~~ parking space leasing data; and labor relations information, provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 13.02, subdivision 13.

Sec. 4. Minnesota Statutes 2004, section 13.37, subdivision 3, is amended to read:

Subd. 3. [DATA DISSEMINATION.] (a) Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs. The location of a National Night Out event is public data.

(b) A government entity may make security information accessible to any person, entity, or the public if the government entity determines that the access will aid public health, promote public safety, or assist law enforcement.

Sec. 5. Minnesota Statutes 2004, section 13.591, is amended by adding a subdivision to read:

Subd. 4. [CLASSIFICATION OF EVALUATIVE DATA; DATA SHARING.] (a) Data created or maintained by a government entity as part of the selection or evaluation process referred to in this section are protected nonpublic data until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

(b) If a state agency asks employees of other state agencies to assist with the selection of the responses to a request for bid or the evaluation of responses to a request for proposal, the state agency may share not public data in the responses with those employees. The employees participating in the selection or evaluation may not further disseminate the not public data they review.

Sec. 6. Minnesota Statutes 2004, section 13.591, is amended by adding a subdivision to read:

Subd. 5. [INTERNAL COMPETITIVE RESPONSE.] (a) For purposes of this subdivision, "internal competitive response" means a bid or proposal to provide government goods or services that is prepared by the staff of a government entity in competition with bids or proposals solicited by (1) the same government entity from the private sector or (2) a different government entity from the private sector.

(b) Data in an internal competitive response is classified as private or nonpublic until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

Sec. 7. Minnesota Statutes 2004, section 13.635, is amended by adding a subdivision to read:

Subd. 1a. [STATE BOARD OF INVESTMENT.] Certain government data of the State Board of Investment related to investments are classified under section 11A.24, subdivision 6.

Sec. 8. Minnesota Statutes 2004, section 13.643, is amended by adding a subdivision to read:

Subd. 6. [ANIMAL PREMISE DATA.] (a) The following data collected and maintained by the Board of Animal Health related to registration and identification of premises and animals under chapter 35, are classified as private or nonpublic:

- (1) the names and addresses;
- (2) the location of the premises where animals are kept; and
- (3) the identification number of the premises or the animal.

(b) The Board of Animal Health may disclose data collected under paragraph (a) to any person,

agency, or to the public if the board determines that the access will aid in the law enforcement process or promote public or animal health or safety.

Sec. 9. Minnesota Statutes 2004, section 16C.06, subdivision 5, is amended to read:

Subd. 5. [STATE AS RESPONDER.] The head of an agency, in consultation with the requesting agency and the commissioner, may respond to a solicitation or request if the goods and services meet the needs of the requesting agency and provide the state with the best value. When an agency responds to a solicitation, all work product relating to the response is ~~nonpublic data as defined in section 13.02, and shall become public information in accordance with subdivision 3 classified by section 13.591, subdivision 5.~~

Sec. 10. Minnesota Statutes 2004, section 168.346, is amended to read:

168.346 [PRIVACY OF NAME OR RESIDENCE ADDRESS PERSONAL INFORMATION.]

~~(a) The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9. Subdivision 1. [VEHICLE REGISTRATION DATA; FEDERAL COMPLIANCE.] (a) Data on an individual provided to register a vehicle is classified as provided by United States Code, title 18, section 2721, subsection (a).~~

~~(b) An individual The registered owner of a motor vehicle must be informed in a clear and conspicuous manner on the forms for issuance or renewal of titles and registrations, that the owner's personal information who is an individual may be disclosed consent in writing to the commissioner to disclose the individual's personal information exempted by United States Code, title 18, section 2721, subsection (a), to any person who makes a written request for the personal information, and that, except for uses permitted by United States Code, title 18, section 2721, subsection (b),. If the registered owner may prohibit disclosure of the personal information by so indicating on the form is an individual and so authorizes disclosure, the commissioner shall implement the request. For purposes of this paragraph, access by requesters making requests described in section 168.345, subdivision 4, is deemed to be related to public safety.~~

~~(c) At the time of registration or renewal, If authorized by the individual registered owner of a motor vehicle must also be informed in a clear and conspicuous manner on forms that as indicated in paragraph (b), the registered owner's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes including surveys, marketing, and or solicitation. The commissioner shall implement methods and procedures that enable the registered owner to request that bulk surveys, marketing, or solicitation not be directed to the owner. If the registered owner so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.~~

~~(d) Subd. 2. [PERSONAL INFORMATION DISCLOSURE FOR PUBLIC SAFETY.] The commissioner shall disclose personal information when the use is related to the operation or use of a motor vehicle or to public safety. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property. The commissioner may refuse to disclose data under this paragraph subdivision when the commissioner concludes that the requester is likely to use the data for illegal, improper, or noninvestigative purposes.~~

~~(e) To the extent permitted by United States Code, title 18, section 2721, data on individuals~~

~~provided to register a motor vehicle is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, subsection (b). Subd. 3. [PRIVACY CLASSIFICATION FOR PERSONAL SAFETY.] The registered owner of a vehicle who is an individual may request, in writing, that the registered owner's residence address or name and residence address be classified as "private data on individuals," as defined in section 13.02, subdivision 12. The commissioner shall grant the classification on receipt of a signed statement by the registered owner that the classification is required for the safety of the registered owner or the registered owner's family, if the statement also provides a valid, existing address where the registered owner consents to receive service of process. The commissioner shall use the service of process mailing address in place of the registered owner's residence address in all documents and notices pertaining to the vehicle. The residence address or name and residence address and any information provided in the classification request, other than the individual's service for process mailing address, are private data on individuals but may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.~~

Sec. 11. Minnesota Statutes 2004, section 169.09, is amended by adding a subdivision to read:

Subd. 16. [INFORMATION; VEHICLE OWNERS.] If an accident report has been prepared by a person involved in an accident and no report has been prepared by a law enforcement officer, the owners of the vehicles involved in an accident shall have the same access to information about the vehicles, their owners, and their drivers that would have been available to a law enforcement officer reporting on the accident.

Sec. 12. Minnesota Statutes 2004, section 171.12, subdivision 7, is amended to read:

~~Subd. 7. [PRIVACY OF RESIDENCE ADDRESS DATA.] (a) An applicant for Data on individuals provided to obtain a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9 is classified as provided by United States Code, title 18, section 2721, subsection (a).~~

~~(b) An applicant for a driver's license or a Minnesota identification card must be informed in a clear and conspicuous manner on the forms for the issuance or renewal that may consent, in writing, to the commissioner to disclose the applicant's personal information may be disclosed exempted by United States Code, title 18, section 2721, subsection (a), to any person who makes a request for the personal information, and that except for uses permitted by United States Code, title 18, section 2721, subsection (b), the applicant may prohibit disclosure of the personal information by so indicating on the form. If the applicant so authorizes disclosures, the commissioner shall implement the request and the information may be used.~~

~~(c) If authorized by an applicant for a driver's license or a Minnesota identification card must be also informed in a clear and conspicuous manner on forms that, as indicated in paragraph (b), the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation. The commissioner shall implement methods and procedures that enable the applicant to request that bulk surveys, marketing, or solicitation not be directed to the applicant. If the applicant so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.~~

~~(d) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to obtain a Minnesota identification card or a driver's license is public data on~~

~~individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, subsection (b). An applicant for a driver's license, instruction permit, or Minnesota identification card may request that the applicant's residence address be classified as "private data on individuals," as defined in section 13.02, subdivision 12. The commissioner shall grant the classification on receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the service for process mailing address in place of the residence address in all documents and notices pertaining to the driver's license, instruction permit, or Minnesota identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.~~

~~(e) A person shall not retain any information from magnetically, electronically, or otherwise scanning a driver's license, permit, or state identification card, except the document holder's name; date of birth; driver's license, permit, or state identification card number; and document expiration date. A person shall not use any of this retained information for advertising, marketing, or promotional activities. A person shall not sell and shall not otherwise disseminate the retained information to any third party for any purpose, including any advertising, marketing, or promotional activities, except that retained information may be provided under a court order or as authorized elsewhere in law. Information obtained by the person shall be destroyed immediately if not specifically authorized to be retained in this paragraph. A violation of this subdivision is a violation of section 171.24 or 171.241."~~

Delete the title and insert:

"A bill for an act relating to data practices; classifying certain State Board of Investment data; providing for certain security information and data; regulating certain motor vehicle and driver records; classifying certain animal health data; amending Minnesota Statutes 2004, sections 11A.24, subdivision 6; 13.37, subdivisions 1, 2, 3; 13.591, by adding subdivisions; 13.635, by adding a subdivision; 13.643, by adding a subdivision; 16C.06, subdivision 5; 168.346; 169.09, by adding a subdivision; 171.12, subdivision 7."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Higgins from the Committee on State and Local Government Operations, to which was referred**

**S.F. No. 427:** A bill for an act relating to retirement; elective state officers retirement plan; amending Minnesota Statutes 2004, section 352C.091, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 352C; repealing Minnesota Statutes 2004, sections 352C.01; 352C.011; 352C.021; 352C.031; 352C.033; 352C.04; 352C.051; 352C.09; 352C.091, subdivisions 2, 3.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"2005 OMNIBUS RETIREMENT BILL

ARTICLE 1

CLARIFICATION/RECODIFICATION OF  
STATEWIDE SPECIALTY RETIREMENT PLANS

Section 1. Minnesota Statutes 2004, section 3A.01, subdivision 1, is amended to read:

Subdivision 1. [PURPOSES.] Each of the terms defined in this section, for the purposes of this chapter shall be given has the meanings meaning ascribed to them.

Sec. 2. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 1a. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one allowance or benefit having an equal actuarial present value to another allowance or benefit, determined by the actuary retained under section 356.214 as of a given date at a specified age with each actuarial present value based on the mortality table applicable for the plan and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 3. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 1b. [AVERAGE MONTHLY SALARY.] "Average monthly salary" means the average of the member's highest five successive years of salary that was received as a member of the legislature and upon which the member has made contributions under section 3A.03, subdivision 1, or for which the member of the legislature has made payments for past service under section 3A.02, subdivision 2, or has made, before July 1, 1994, payments in lieu of contributions under Minnesota Statutes 1992, section 3A.031.

Sec. 4. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 1c. [CONSTITUTIONAL OFFICER.] "Constitutional officer" means a person who was duly elected, qualifies for, and serves as the governor, the lieutenant governor, the attorney general, the secretary of state, or the state auditor of the state of Minnesota.

Sec. 5. Minnesota Statutes 2004, section 3A.01, subdivision 2, is amended to read:

Subd. 2. [DEPENDENT CHILD.] (a) "Dependent child" means any natural or adopted child of a deceased member of the legislature or a former legislator who is under the age of 18, or who is under the age of 22 and is a full-time student, and who, in either case, is unmarried and was actually dependent for more than one-half of support upon such the legislator for a period of at least 90 days immediately prior to before the legislator's death. If

(b) The term also includes any child of the member of the legislature or former legislator who was conceived during the lifetime of, and who was born after the death of, the member or former legislator. This subdivision shall be retroactive as to any dependent child under the age of 22 years as of April 1, 1975.

Sec. 6. Minnesota Statutes 2004, section 3A.01, subdivision 6, is amended to read:

Subd. 6. [DIRECTOR.] "Director" means the executive director of the Minnesota State Retirement System who was appointed under section 352.03, subdivision 5.

Sec. 7. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 6b. [FORMER LEGISLATOR.] "Former legislator" means a legislator who has ceased to be a member of the legislature for any reason, including, but not limited to, the expiration of the term for which a member of the legislature was elected or the death of the member.

Sec. 8. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 6c. [MEMBER OF THE LEGISLATURE.] "Member of the legislature" means a person who was a member of the house of representatives or of the senate of the state of Minnesota who has subscribed to the oath of office after July 1, 1965, and who was first elected to a legislative office before July 1, 1997, and retained coverage by the plan under Laws 1997, chapter 233, article 2, section 15.

Sec. 9. Minnesota Statutes 2004, section 3A.01, subdivision 8, is amended to read:

Subd. 8. [NORMAL RETIREMENT AGE.] "Normal retirement age" means the age of 60 years with regard to any member of the legislature whose service terminates prior to the beginning of the 1981 legislative session, and the age of 62 years with regard to any member of the legislature whose service terminates after the beginning of the 1981 session.

Sec. 10. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 9. [RETIREMENT.] "Retirement" means the period of time after which a former legislator is entitled to a retirement allowance.

Sec. 11. Minnesota Statutes 2004, section 3A.01, is amended by adding a subdivision to read:

Subd. 10. [SALARY.] (a) "Salary" means the regular compensation payable under law to a member of the legislature and paid to the person for service as a legislator.

(b) The term includes the monthly compensation paid to the member of the legislature and the per diem payments paid during a regular or special session to the member of the legislature.

(c) The term does not include per diem payments paid to a member of the legislature other than during the regular or special session; additional compensation attributable to a leadership position under section 3.099, subdivision 3; living expense payments under section 3.101; and special session living expense payments under section 3.103.

Sec. 12. Minnesota Statutes 2004, section 3A.011, is amended to read:

3A.011 [ADMINISTRATION OF PLAN.]

The executive director and the board of directors of the Minnesota State Retirement System shall administer the legislators retirement plan in accordance with this chapter and chapter 356A.

Sec. 13. Minnesota Statutes 2004, section 3A.02, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATIONS.] (a) A former legislator is entitled, upon written application to the director, to receive a retirement allowance monthly, if the person:

(1) has either served at least six full years, without regard to the application of section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a member of the legislature, which service need not be continuous;

(2) has attained the normal retirement age;

(3) has retired as a member of the legislature; and

(4) has made all contributions provided for in section 3A.03, has made payments for past service under subdivision 2, or has made payments in lieu of contributions under Minnesota Statutes 1992, section 3A.031, ~~prior to~~ before July 1, 1994.

~~(b) This paragraph applies to members of the legislature who terminate service as a legislator before July 1, 1997. For service rendered before the beginning of the 1979 legislative session, but not to exceed eight years of service, the retirement allowance is an amount equal to five percent per year of service of that member's average monthly salary. For service in excess of eight years rendered before the beginning of the 1979 legislative session, and for service rendered after the beginning of the 1979 legislative session, Unless the former legislator has legislative service before January 1, 1979, the retirement allowance is an amount equal to 2-1/2 percent per year of service of that member's average monthly salary.~~

~~(c) This paragraph applies to members of the legislature who terminate service as a legislator after June 30, 1997. The retirement allowance is an amount equal to the applicable rate or rates under paragraph (b) per year of service of the member's average monthly salary and adjusted for that person on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent. The adjustment must be calculated by or, alternatively, the adjustment procedure must be specified by, the actuary retained by the Legislative Commission on Pensions and Retirement under section 356.214. The purpose of this adjustment is to ensure that the total amount of benefits that the actuary predicts an individual member will receive over the member's lifetime under this paragraph will be the same as the total amount of benefits the actuary predicts the individual member would receive over the member's lifetime under the law in effect before enactment of this~~

paragraph. If the former legislator has legislative service before January 1, 1979, the person's benefit must include the additional benefit amount in effect on January 1, 1979, and adjusted as otherwise provided in this paragraph.

(d) (c) The retirement allowance accrues beginning with the first day of the month of receipt of the application, but not before age 60, and for the remainder of the former legislator's life, if the former legislator is not serving as a member of the legislature or as a constitutional officer or commissioner as defined in section 352C.021, subdivisions 2 and 3 3A.01, subdivision 1c. The annuity does not begin to accrue ~~prior to~~ before the person's retirement as a legislator. No annuity payment may be made retroactive for more than 180 days before the date that the annuity application is filed with the director.

(e) (d) Any member who has served during all or part of four regular sessions is considered to have served eight years as a member of the legislature.

(f) (e) The retirement allowance ceases with the last payment that accrued to the retired legislator during the retired legislator's lifetime, except that the surviving spouse, if any, is entitled to receive the retirement allowance of the retired legislator for the calendar month in which the retired legislator died.

Sec. 14. Minnesota Statutes 2004, section 3A.02, subdivision 1b, is amended to read:

Subd. 1b. [REDUCED RETIREMENT ALLOWANCE.] (a) Upon separation from service after the beginning of the 1981 legislative session, a former member of the legislature who has attained the age set by the board of directors of the Minnesota State Retirement System and who is otherwise qualified ~~in accordance with~~ under subdivision 1 is entitled, upon making written application on ~~forms supplied~~ a form prescribed by the director, to a reduced retirement allowance ~~in~~. The reduced retirement allowance is an amount equal to the retirement allowance specified in subdivision 1, paragraph (b), that is reduced so that the reduced annuity allowance is the actuarial equivalent of the annuity allowance that would be payable if the former member of the legislature deferred receipt of the annuity allowance and the annuity allowance amount were was augmented at an annual rate of three percent compounded annually from the date the annuity allowance begins to accrue until age 62.

(b) The age set by the board of directors under paragraph (a) cannot be less an earlier age than the early retirement age under section 352.116, subdivision 1a.

(c) If there is an actuarial cost to the plan of resetting the early retirement age under paragraph (a), the retired legislator is required to pay an additional amount to cover the full actuarial value. The additional amount must be paid in a lump sum within 30 days of the certification of the amount by the executive director.

(d) The executive director of the Minnesota State Retirement System shall report to the Legislative Commission on Pensions and Retirement on the utilization of this provision annually on or before September 1, ~~2000~~.

Sec. 15. Minnesota Statutes 2004, 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 ~~and shall~~. The retirement allowance must be paid monthly to the recipients entitled thereto to those retirement allowances.

Sec. 16. Minnesota Statutes 2004, section 3A.02, subdivision 4, is amended to read:

Subd. 4. [DEFERRED ANNUITIES AUGMENTATION.] (a) The deferred ~~annuity~~ retirement allowance of any former legislator must be augmented as provided herein.

(b) The required reserves applicable to the deferred ~~annuity~~ retirement allowance, determined as of the date the benefit begins to accrue using an appropriate mortality table and an interest



assumption of six percent, must be augmented from the first of the month following the termination of active service, or July 1, 1973, whichever is later, to the first day of the month in which the annuity allowance begins to accrue, at the following annually compounded rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually until January 1 of the year in which the former legislator attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually. or rates:

| <u>rate</u>              | <u>period</u>  |
|--------------------------|--|
| (1) <u>five percent</u>  | <u>until January 1, 1981</u>   |
| (2) <u>three percent</u> | <u>from January 1, 1981, or from the first day of the month following the termination of active service, whichever is later, until January 1 of the year in which the former legislator attains age 55</u> |
| (3) <u>five percent</u>  | <u>from the period end date under clause (2) to the effective date of retirement.</u>  |

~~(b) The retirement allowance of, or the survivor benefit payable on behalf of, a former member of the legislature 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 of directors of the Minnesota State Retirement System and approved by the actuary retained by the Legislative Commission on Pensions and Retirement.~~

Sec. 17. Minnesota Statutes 2004, section 3A.02, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITIES.] (a) The board of directors shall establish an optional retirement annuity in the form of a joint and survivor annuity and an optional retirement annuity in the form of a period certain and life thereafter. Except as provided in paragraph (b), these optional annuity forms must be actuarially equivalent to the normal annuity allowance computed under this section, plus the actuarial value of any surviving spouse benefit otherwise potentially payable at the time of retirement under section 3A.04, subdivision 1. An individual selecting an optional annuity under this subdivision waives and the person's spouse waive any rights to surviving spouse benefits under section 3A.04, subdivision 1.

(b) If a retired legislator selects the joint and survivor annuity option, the retired legislator must receive a normal single-life annuity allowance if the designated optional annuity beneficiary dies before the retired legislator and no reduction may be made in the annuity to provide for restoration of the normal single-life annuity allowance in the event of the death of the designated optional annuity beneficiary.

(c) The surviving spouse of a legislator who has attained at least age 60 and who dies while a member of the legislature may elect an optional joint and survivor annuity under paragraph (a), in lieu of surviving spouse benefits under section 3A.04, subdivision 1.

Sec. 18. Minnesota Statutes 2004, section 3A.03, subdivision 1, is amended to read:

Subdivision 1. [PERCENTAGE.] (a) Every member of the legislature shall contribute nine percent of total salary.

(b) ~~The contribution must be made by payroll deduction, to and must be paid into the state treasury and deposited in the general fund. It shall be the duty of~~

(c) ~~The director to~~ must record the periodic contributions of each member of the legislature and must credit such each contribution to the member's account.

Sec. 19. Minnesota Statutes 2004, section 3A.03, subdivision 2, is amended to read:

Subd. 2. [REFUND.] (a) A former member who has made contributions under subdivision 1 and who is no longer a member of the legislature is entitled to receive, upon written application to the executive director on a form prescribed by the executive director, a refund from the general fund of all contributions credited to the member's account with interest computed as provided in section 352.22, subdivision 2.

(b) The refund of contributions as provided in paragraph (a) terminates all rights of a former member of the legislature and the survivors of the former member under this chapter.

(c) If the former member of the legislature again becomes a member of the legislature after having taken a refund as provided in paragraph (a), the member ~~must be considered is~~ a new member of ~~this plan~~ the unclassified employees retirement program of the Minnesota State Retirement System.

(d) However, the member may reinstate the rights and credit for service previously forfeited under this chapter if the member repays all refunds taken, plus interest at an annual rate of 8.5 percent compounded annually from the date on which the refund was taken to the date on which the refund is repaid.

~~(d)~~ (e) No person may be required to apply for or to accept a refund.

Sec. 20. Minnesota Statutes 2004, section 3A.04, subdivision 1, is amended to read:

Subdivision 1. [SURVIVING SPOUSE.] (a) Upon the death of a member of the legislature while serving as such a member after June 30, 1973, or upon the death of a former member of the legislature with at least ~~the number of six full~~ years of service as required by section 3A.02, subdivision 1, clause (1) or service in all or part of four regular legislative sessions, the surviving spouse ~~shall be paid is entitled to~~ a survivor benefit ~~in the amount of~~.

(b) The surviving spouse benefit is one-half of the retirement allowance of the member of the legislature computed as though the member were at least normal retirement age on the date of death and based upon the member's allowable service or upon eight years, whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, ~~shall~~ must be applied for the period up to, and including, the month of death.

(c) Upon the death of a former legislator receiving a retirement allowance, the surviving spouse ~~shall be~~ is entitled to one-half of the amount of the retirement allowance being paid to the legislator. ~~Such~~

(d) The surviving spouse benefit shall be paid during is payable for the lifetime of the surviving spouse.

Sec. 21. Minnesota Statutes 2004, section 3A.04, subdivision 2, is amended to read:

Subd. 2. [DEPENDENT CHILDREN.] (a) Upon the death of a member of the legislature while serving as a member, or upon the death of a former member of the legislature who has rendered at least ~~the number of six full~~ years of service as required by section 3A.02, subdivision 1, clause (1) or service in all or part of four regular legislative sessions and who was not receiving a retirement allowance, each dependent child of the member or former legislator ~~shall be~~ is entitled to receive a survivor benefit in the following amount:

(1) for the first dependent child, a monthly ~~allowance which equals~~ benefit equal to 25 percent of the monthly retirement allowance of the member of the legislature or the former legislator computed as though the member or the former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, ~~whichever is applicable~~ applies, and the member's allowable service or eight years, whichever is greater;

(2) for each additional dependent child, a monthly ~~allowance which equals~~ benefit equal to

12-1/2 percent of the monthly retirement allowance of the member or the former legislator computed as provided in the case of the first child clause (1); but and

(3) the total amount paid to the surviving spouse and to the dependent child or children shall may not exceed, in any one month, 100 percent of the monthly retirement allowance of the member or of the former legislator computed as provided in the case of the first child clause (1).

(b) The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied applies from the first day of the month next following the date of the termination of the person from service as a member of the legislature to the month of the death of the person.

(c) Upon the death of a former legislator who was receiving a retirement allowance, the a surviving dependent child shall be is entitled to the applicable percentage specified above in paragraph (a), clause (1) or (2), whichever applies, of the amount of the allowance which was paid to the former legislator for the month immediately prior to before the date of death of the former legislator.

(d) The payments for dependent children shall must be made to the surviving spouse or to the guardian of the estate of the dependent children, if there is one.

Sec. 22. Minnesota Statutes 2004, section 3A.04, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The surviving spouse's spouse and dependent children's child or children survivor benefits payable under this section shall be paid are payable by the director monthly in the same manner as retirement allowances are authorized to be paid by this chapter.

Sec. 23. Minnesota Statutes 2004, section 3A.04, subdivision 4, is amended to read:

Subd. 4. [DEATH REFUNDS.] (a) Upon the death of a member of the legislature or of a former legislator who was not receiving a retirement allowance, without leaving either a surviving spouse or a dependent child or dependent children, the last designated beneficiary named on a form that was filed with the director before the death of the legislator, or if no designation is filed, the estate of the member or the former legislator, upon application, shall be is entitled to a refund.

(b) The refund is the amount of contributions credited to the person's account plus interest as provided in section 3A.03, subdivision 2, clause (2) paragraph (a).

Sec. 24. Minnesota Statutes 2004, section 3A.04, is amended by adding a subdivision to read:

Subd. 5. [APPROPRIATION.] The survivor benefits and the death refunds authorized by this section are appropriated to the director from the general fund when they are due and payable.

Sec. 25. Minnesota Statutes 2004, section 3A.05, is amended to read:

3A.05 [APPLICATION FOR SURVIVOR BENEFIT.]

(a) Applications for survivor benefits pursuant to under section 3A.04 shall must be filed with the director by the surviving spouse and dependent child or children entitled to benefits pursuant to under section 3A.04, or by the guardian of the estate, if there is one, of the dependent child or children.

(b) Survivor benefits shall accrue as of the first day of the month following the death of the member of the legislature or former legislator and payments shall commence as of the first of the month next following the filing of the application, and shall be are retroactive to the date the benefit accrues; provided, however, that no payment shall be retroactive for more than or the first of the month occurring 12 months prior to before the month in which the application is filed with the director, whichever is earlier.

Sec. 26. Minnesota Statutes 2004, section 3A.07, is amended to read:

3A.07 [APPLICATION.]

(a) Except as provided in paragraph (b), this chapter applies to members of the legislature in service after July 1, 1965, who otherwise meet the requirements of this chapter.

(b) Members of the legislature who were elected for the first time after June 30, 1997, or members of the legislature who were elected before July 1, 1997, and who, after July 1, 1998, elect not to be members of the plan established by this chapter are covered by the unclassified employees retirement program governed by chapter 352D.

(c) The post-July 1, 1998, coverage election under paragraph (b) is irrevocable and must be made on a form prescribed by the director. The second chance referendum election under Laws 2002, chapter 392, article 15, also is irrevocable.

Sec. 27. Minnesota Statutes 2004, section 3A.10, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT FOR LEGISLATIVE TERM.] (a) In the case of a member of the house of representatives, one full term of office shall ~~must~~ be considered two full years of service, notwithstanding the fact that the oath of office may be was taken on different days each biennium.

(b) In the case of a member of the senate, one full term of office shall ~~must~~ be considered four full years of service, notwithstanding the fact that the oath of office may be was taken on different days at the start of each term.

(c) For purposes of this chapter, a legislative term ~~shall~~ must be deemed to commence on January ~~1st 1~~ and to end on December ~~31st 31~~.

Sec. 28. Minnesota Statutes 2004, section 3A.12, is amended to read:

3A.12 [COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.]

Subdivision 1. [ENTITLEMENT TO ANNUITY.] (a) Any legislator who has been an employee covered by a member of a retirement plan listed in paragraph (b) is entitled, when otherwise qualified, to a retirement allowance or annuity from each plan if the total allowable service in all plans or in any two of these plans totals ten or more years.

(b) This section applies to any retirement plan or program administered by the Minnesota State Retirement System, or a member of any retirement plan administered by the Public Employees Retirement Association, including the Public Employees Retirement Association police and fire fund, or the Teachers Retirement Association, or the Minneapolis employees retirement Fund plan, or the State Patrol retirement fund plan, or any other public employee retirement system in the state of Minnesota having a like provision ~~but excluding all.~~

(c) This section does not apply to other funds retirement plans providing benefits for police or firefighters, shall be entitled when qualified to an annuity from each fund if the total allowable service for which the legislator has credit in all funds or in any two of these funds totals ten or more years, provided.

(d) No portion of the allowable service upon which the retirement annuity from one fund plan is based is again used in the computation for benefits from another fund plan. The annuity from each fund shall plan must be determined by the appropriate provisions of the law, except that the requirement that a person must have at least ten a minimum number of years of allowable service in the respective system or association shall does not apply for the purposes of this section provided if the combined service in two or more of these funds plans equals ten or more years. The augmentation of deferred annuities provided in section 3A.02, subdivision 4, shall apply applies to the annuities accruing hereunder under this section.

Subd. 2. [REFUND REPAYMENT.] Any A former legislator who has received a refund as provided in section 3A.03, subdivision 2, who is a currently contributing member of a retirement fund plan specified in subdivision 1, paragraph (b), may repay the refund as provided in section 3A.03, subdivision 2. Any A member of the legislature who has received a refund from any of the

~~funds retirement plans~~ specified in subdivision 1, may repay the refund to the respective ~~fund plan~~ under such terms and conditions consistent with the law governing ~~such fund the retirement plan~~ if the law governing ~~such fund the plan~~ permits the repayment of refunds. If the total amount to be repaid, including principal and interest exceeds \$2,000, repayment may be made in three equal installments over a period of 18 months, with the interest accrued during the period of the repayment added to the final installment.

Sec. 29. Minnesota Statutes 2004, section 3A.13, is amended to read:

3A.13 [EXEMPTION FROM PROCESS AND TAXATION; HEALTH PREMIUM DEDUCTION.]

(a) The provisions of section 352.15 shall apply to the legislators retirement plan, chapter 3A.

(b) The executive director of the Minnesota State Retirement System must, at the request of a retired legislator who is enrolled in a health insurance plan covering state employees, deduct the person's health insurance premiums from the person's annuity and transfer the amount of the premium to a health insurance carrier covering state employees.

Sec. 30. [352C.001] [RETIREMENT PLAN; APPLICATION.]

(a) The retirement plan applicable to a former constitutional officer who was first elected to a constitutional office after July 1, 1967, and before July 1, 1997, is the applicable portions of this chapter and chapter 356 in effect on the date on which the person terminated active service as a constitutional officer.

(b) Nothing in this section or section 31 or 77, subdivision 2, is intended to reduce the benefits of former constitutional officers or to adversely modify their eligibility for benefits in effect as of the day before the effective date of this section.

Sec. 31. Minnesota Statutes 2004, section 352C.091, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATIVE AGENCY AND STANDARDS.] ~~This chapter~~ (a) The elected officers retirement plan must be administered by the board of directors and the executive director of the Minnesota State Retirement System.

(b) The elected state officers retirement plan must be administered consistent with this chapter the applicable statutory provisions governing the plan and chapters 356 and 356A.

Sec. 32. Minnesota Statutes 2004, section 490.121, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For purposes of sections 490.121 to 490.132, unless the context clearly indicates otherwise, each of the terms defined in this section have has the meanings meaning given them unless the context clearly indicates otherwise it.

Sec. 33. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 2a. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the board of directors of the Minnesota State Retirement System based on the experience of the fund as recommended by the actuary retained under section 356.214 and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 34. Minnesota Statutes 2004, section 490.121, subdivision 4, is amended to read:

Subd. 4. [ALLOWABLE SERVICE.] (a) "Allowable service" means any calendar month, subject to the service credit limit in subdivision 22, served as a judge at any time, or during which the judge received compensation for that service from the state, municipality, or county, whichever applies, and for which the judge made any required member contribution. It also includes any month served as a referee in probate for all referees in probate who were in office prior to before January 1, 1974.

(b) "Allowable service" does not mean service as a retired judge.

Sec. 35. Minnesota Statutes 2004, section 490.121, subdivision 6, is amended to read:

Subd. 6. [ANNUITY.] "Annuity" means the payments that are made each year to an annuitant from the judges' retirement fund, pursuant to the provisions of under sections 490.121 to 490.132.

Sec. 36. Minnesota Statutes 2004, section 490.121, subdivision 7, is amended to read:

Subd. 7. [ANNUITANT.] "Annuitant" means a former judge, a surviving spouse, or a dependent child who is entitled to and is receiving an annuity under the provisions of sections 490.121 to 490.132.

Sec. 37. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 7a. [APPROVED ACTUARY.] "Approved actuary" means an actuary as defined in section 356.215, subdivision 1, paragraph (c).

Sec. 38. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 7b. [COURT.] "Court" means any court of this state that is established by the Minnesota Constitution.

Sec. 39. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 7c. [DEPENDENT SURVIVING CHILD.] "Dependent surviving child" means any natural or adopted child of a deceased judge who has not reached the age of 18 years, or having reached the age of 18, is under age 22 and who is a full-time student throughout the normal school year, is unmarried, and is actually dependent for more than one-half of the child's support upon the judge for a period of at least 90 days before the judge's death. It also includes any natural child of the judge who was born after the death of the judge.

Sec. 40. Minnesota Statutes 2004, section 490.121, subdivision 13, is amended to read:

Subd. 13. [DISABILITY.] "Disability" means the permanent inability of a judge to continue to perform the functions of judge by reason of a physical or mental impairment resulting from a sickness or an injury.

Sec. 41. Minnesota Statutes 2004, section 490.121, subdivision 14, is amended to read:

Subd. 14. [DISABILITY RETIREMENT DATE.] "Disability retirement date" means the last day of the first month after the date on which the governor determines, upon receipt of the voluntary application by the judge or otherwise, that a judge suffers from a disability.

Sec. 42. Minnesota Statutes 2004, section 490.121, subdivision 15, is amended to read:

Subd. 15. [DISABILITY RETIREMENT ANNUITY.] "Disability retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivisions 1 and 4, after the retirement for reason of the judge because of a disability.

Sec. 43. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 15a. [EARLY RETIREMENT DATE.] "Early retirement date" means the last day of the month after a judge attains the age of 60 but before the judge reaches the normal retirement date.

Sec. 44. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 15b. [EARLY RETIREMENT ANNUITY.] "Early retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivisions 1 and 3, upon retirement by the judge at an early retirement date.

Sec. 45. Minnesota Statutes 2004, section 490.121, subdivision 21, is amended to read:

Subd. 21. [FINAL AVERAGE COMPENSATION.] "Final average compensation" means the total amount of the salary payable paid to a judge in the highest five years out of the last ten years prior to before the event of maturity of benefits termination of judicial service, divided by five; provided, however, that if the number of years of service by the judge equals or exceeds ten. If the number of years of service by the judge is less than ten, but more than five, the highest five shall years of salary must be counted, and. If the number of years of service by the judge is less than five, the aggregate salary in such for the period shall of service must be divided by the number of months in such the period and multiplied by 12.

Sec. 46. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 21a. [JUDGE.] "Judge" means a judge or a justice of any court as defined under subdivision 7b.

Sec. 47. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 21b. [JUDGES' RETIREMENT FUND; RETIREMENT FUND; FUND.] "Judges' retirement fund," "retirement fund," or "fund" means the fund created by section 490.123.

Sec. 48. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 21c. [MANDATORY RETIREMENT DATE.] "Mandatory retirement date" means the last day of the month in which a judge has attained 70 years of age.

Sec. 49. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 21d. [NORMAL RETIREMENT ANNUITY.] Except as otherwise provided in sections 490.121 to 490.132, "normal retirement annuity" means an annuity to which a judge is entitled under section 490.124, subdivision 1, upon retirement on or after the normal retirement date of the judge.

Sec. 50. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 21e. [NORMAL RETIREMENT DATE.] "Normal retirement date" means the last day of the month in which a judge attains the age of 65.

Sec. 51. Minnesota Statutes 2004, section 490.121, subdivision 22, is amended to read:

Subd. 22. [SERVICE CREDIT LIMIT.] "Service credit limit" means the greater of: (1) 24 years of allowable service under this chapter 490; or (2) for judges with allowable service rendered prior to before July 1, 1980, the number of years of allowable service under chapter 490, which, when multiplied by the percentage listed in section 356.315, subdivision 7 or 8, whichever is applicable to each year of service, equals 76.8.

Sec. 52. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 23. [SURVIVING SPOUSE.] "Surviving spouse" means the surviving legally married spouse of a deceased judge.

Sec. 53. Minnesota Statutes 2004, section 490.121, is amended by adding a subdivision to read:

Subd. 24. [SURVIVOR'S ANNUITY.] "Survivor's annuity" means an annuity to which a surviving spouse or dependent child is entitled under section 490.124, subdivision 9.

Sec. 54. Minnesota Statutes 2004, section 490.122, is amended to read:

490.122 [ADMINISTRATION OF JUDGES' RETIREMENT.]

Subdivision 1. [ADMINISTRATION.] The policy-making, management, and administrative functions governing the operation of the judges' retirement fund and the administration of sections 490.121 to 490.132 this chapter are vested in the board of directors and executive director of the Minnesota State Retirement System with such. In administering the plan and fund, the board and the director have the same duties, authority, and responsibility as are provided in chapter 352.

Subd. 2. [INAPPLICABILITY OF CERTAIN LAWS.] Except as otherwise specified, no provision of chapter 352 applies to the judges' retirement fund or any judge.

Subd. 3. [FIDUCIARY RESPONSIBILITY.] Fiduciary activities of relating to the uniform judges' retirement and Survivors' Annuities for Judges plan must be undertaken in a manner consistent with chapter 356A.

Sec. 55. Minnesota Statutes 2004, 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 sections 490.121 to 490.132, 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. 56. Minnesota Statutes 2004, section 490.123, subdivision 1a, is amended to read:

Subd. 1a. [MEMBER CONTRIBUTION RATES.] (a) A judge who is covered by the federal Old Age, Survivors, Disability, and Health Insurance Program and whose service does not exceed the service credit limit in section 490.121, subdivision 22, shall contribute to the fund from each salary payment a sum equal to 8.00 percent of salary.

~~(b) A judge not so covered whose service does not exceed the service credit limit in section 490.121, subdivision 22, shall contribute to the fund from each salary payment a sum equal to 8.15 percent of salary.~~

(e) The contribution under this subdivision is payable by salary deduction. The deduction must be made by the state court administrator under section 352.04, subdivisions 4, 5, and 8.

Sec. 57. Minnesota Statutes 2004, section 490.123, subdivision 1b, is amended to read:

Subd. 1b. [EMPLOYER CONTRIBUTION RATE.] (a) The employer contribution rate to the fund on behalf of a judge is 20.5 percent of salary and the employer obligation continues after a judge exceeds the service credit limit in section 490.121, subdivision 22.

(b) The employer contribution must be paid by the state court administrator and. The employer contribution is payable at the same time as member contributions are made under subdivision 1a or as employee contributions are made to the unclassified plan in program governed by chapter 352D for judges whose service exceeds the limit in section 490.121, subdivision 22, are remitted.

Sec. 58. Minnesota Statutes 2004, section 490.123, subdivision 1c, is amended to read:

Subd. 1c. [ADDITIONAL EMPLOYER CONTRIBUTION.] ~~In the event that~~ If the employer contribution under subdivision 1b and the assets of the judges retirement fund are insufficient to meet reserve transfers to the Minnesota postretirement investment fund or payments of survivor benefits before July 1, 1993 in a month, the necessary amount is appropriated from the general fund to the executive director of the Minnesota State Retirement System, upon the certification of the required amount by the executive director to the commissioner of finance.

Sec. 59. Minnesota Statutes 2004, section 490.123, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER OF FINANCE.] The commissioner of finance shall be is the ex officio treasurer of the judges' retirement fund and the. The commissioner's general bond to the state shall must be so conditioned as to cover all liability for acting as the treasurer of this the fund. All moneys money received by the commissioner pursuant to under this section shall must be set aside in the state treasury to the credit of the judges' retirement fund. ~~The commissioner~~



~~shall transmit monthly to the executive director described in section 352.03, subdivision 5, a detailed statement of all amounts so received and credited to the fund. The commissioner shall pay out the fund only upon vouchers signed by said executive director; provided that vouchers for investment may be signed by the secretary of the State Board of Investment.~~

Sec. 60. Minnesota Statutes 2004, section 490.123, subdivision 3, is amended to read:

Subd. 3. [INVESTMENT.] (a) ~~The executive director referred to in subdivision 2 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 shall ~~must~~ be transferred to the Minnesota postretirement investment fund for retirement and disability benefits as provided in sections 11A.18 and 352.119.

(c) 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. 61. Minnesota Statutes 2004, section 490.124, subdivision 1, is amended to read:

Subdivision 1. [BASIC RETIREMENT ANNUITY.] (a) ~~Except as qualified hereinafter from and after the mandatory retirement date, the normal retirement date, the early retirement date, or one year from the disability retirement date, as the case may be, a retiring judge is eligible to receive a retirement annuity shall be payable to a retiring judge from the judges' retirement fund in.~~

(b) The retirement annuity is an amount equal to: (1) the percent specified in section 356.315, subdivision 7, multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service rendered prior to before July 1, 1980; plus (2) the percent specified in section 356.315, subdivision 8, multiplied by the judge's final average compensation with that result then multiplied by the number of years and fractions of years of allowable service rendered after June 30, 1980.

(c) Service that exceeds the service credit limit in section 490.121, subdivision 22, must be excluded in calculating the retirement annuity, but the compensation earned by the judge during this period of judicial service must be used in determining a judge's final average compensation and calculating the retirement annuity.

Sec. 62. Minnesota Statutes 2004, section 490.124, subdivision 2, is amended to read:

Subd. 2. [MINIMUM SERVICE REQUIREMENT; EXTENSION OF TERM.] ~~No~~ (a) Unless section 356.30 applies, a judge shall be is not eligible for an annuity at the normal retirement date or the early retirement date if the judge has less than five years of allowable service.

(b) A judge who shall retire retires on or, as permitted under sections 490.121 to 490.132, after the judge's mandatory retirement date, shall be is entitled to a proportionate annuity based upon the allowable service of the judge at the date of retirement.

~~A judge who was in office on December 31, 1973, and thereafter and who, by the date on which the current term expires, would not be eligible to retire with full benefits under statutes in effect on December 31, 1973, may apply to the governor for an extension to serve up to three additional years, stating the intention of the judge to retire upon attaining eligibility to receive a retirement allowance. Notwithstanding section 490.125, the governor shall forthwith make a written order accepting the retirement application, and extending the term of office of the judge for the period of time, not to exceed three years, as may be necessary to make the judge eligible for retirement, solely for purposes of computing benefits hereunder.~~

Sec. 63. Minnesota Statutes 2004, section 490.124, subdivision 3, is amended to read:

Subd. 3. [EARLY REDUCED RETIREMENT.] The retirement annuity ~~provided by under~~ subdivision 1 of any judge ~~electing who elects~~ to retire at an early retirement date ~~shall must be~~ reduced by one-half of one percent per month from the retirement date to the normal retirement date.

Sec. 64. Minnesota Statutes 2004, section 490.124, subdivision 4, is amended to read:

Subd. 4. [DISABILITY RETIREMENT.] (a) When the governor determines that a judge is disabled under section 490.121, subdivision 13, notice of the governor's determination must be sent to the judge, to the chief justice of the Supreme Court, to the state court administrator, and to the executive director of the Minnesota State Retirement System.

(b) From and after disability retirement date, a disabled judge shall be is entitled to continuation of the judge's full salary payable by the judge's employer, as if the judge's office were not vacated by retirement, for a period of up to one full year, but in no event beyond the judge's mandatory retirement date. During this year the judge will is entitled to earn additional service credit in the judges' retirement plan. The salary earned will be payable to a disabled judge is subject to retirement deductions and will must be included in computing final average compensation of the judge. Thereafter

(c) At the conclusion of the year of continued salary following a disability or upon the judge's mandatory retirement date, whichever is earlier, the disabled judge is entitled to a disability retirement annuity computed as provided in subdivision 1 shall be paid, provided that. If the computed retirement annuity is a smaller amount, the judge shall is entitled to receive a minimum annuity of 25 percent of the judge's final average compensation.

Sec. 65. Minnesota Statutes 2004, section 490.124, subdivision 5, is amended to read:

Subd. 5. [DEFERRED BENEFITS.] (a) Any A benefit to which a judge is entitled under this section may be deferred until the early or normal retirement date or later, notwithstanding the termination of such the judge's service prior thereto.

(b) The retirement annuity of, or the survivor benefit payable on behalf of, a former judge, 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 of directors of the Minnesota State Retirement System and approved by the actuary retained by the Legislative Commission on Pensions and Retirement under section 356.214.

Sec. 66. Minnesota Statutes 2004, section 490.124, subdivision 8, is amended to read:

Subd. 8. [EXCLUSIVE NORMAL RETIREMENT BENEFITS.] ~~Any (a) Except as provided in paragraph (b), a judge who retires after December 31, 1973, shall be is entitled to a retirement pension, retirement compensation or other retirement payment under statutes applicable solely to judges pursuant to under this section only, except that any such.~~

(b) A judge who was in office prior to before January 1, 1974, who retires at or after normal retirement age may then elect to receive during the judge's lifetime a normal retirement annuity computed on the basis of retirement compensation provided for such judge under statutes in effect on December 31, 1973, in lieu of the amount of normal retirement annuity otherwise computed under sections 490.121 to 490.132.

~~For purposes of this subdivision, the Conciliation Court of the city of Duluth shall be deemed to have been a court of record by the statutes in effect on December 31, 1973.~~

Sec. 67. Minnesota Statutes 2004, section 490.124, subdivision 9, is amended to read:

Subd. 9. [SURVIVORS' ANNUITY.] (a) Upon the death of a judge prior to before retirement, or upon the death of a person who has qualified for an annuity under this section but who ceases to be a judge prior to before retirement and has who not received a refund of contributions pursuant

~~to under~~ subdivision 12, a surviving spouse is entitled to, or, if there be no surviving spouse, dependent children, shall be entitled to receive an annuity, payable monthly, equal in total to 60 percent of the normal retirement annuity which would have been payable to the judge or former judge had the date of death been the normal retirement date, ~~provided that the~~.

(b) The annuity payable to a surviving spouse or to dependent children ~~shall receive an annuity is an amount of~~ not less than 25 percent of the judge's or the former judge's final average compensation.

~~If a judge, whose surviving spouse was not entitled to survivors benefits provided solely for judges under statutes in effect prior to January 1, 1974, shall have died prior to retirement on or after May 23, 1973 and before January 1, 1974, a surviving spouse and dependent children, if any, shall be entitled to survivors benefits as provided hereunder as if such judge had died on January 1, 1974.~~

Sec. 68. Minnesota Statutes 2004, section 490.124, subdivision 10, is amended to read:

Subd. 10. [PRIOR SURVIVORS' BENEFITS; LIMITATION.] (a) Benefits provided pursuant ~~to under~~ Minnesota Statutes 2004, section 490.102, subdivision 6, or 490.1091, for a surviving spouse of a retired judge, payable after the death of the judge, ~~shall be~~ are limited to:

(a) spouses of judges who have retired ~~prior to~~ before January 1, 1974; ~~and~~.

(b) spouses of judges in office on December 31, 1973 and thereafter who elect to continue contributions pursuant to section 490.102, subdivision 6 or 490.109. The contributions shall be in addition to contributions pursuant to section 490.123, and upon retirement the judge may not elect to receive any optional annuity pursuant to subdivision 11 unless the judge and the spouse shall waive any benefits pursuant to section 490.102, subdivision 6 or 490.1091.

No other judge in office on or after January 1, 1974, ~~shall be~~ is required to contribute pursuant ~~to under~~ Minnesota Statutes 2004, section 490.102, subdivision 6, or 490.109.

Sec. 69. Minnesota Statutes 2004, section 490.124, subdivision 11, is amended to read:

Subd. 11. [LIMITATION ON SURVIVOR BENEFITS; OPTIONAL ANNUITIES.] (a) No survivor or death benefits may be paid in connection with the death of a judge who retires after December 31, 1973, except as otherwise provided in sections 490.121 to 490.132.

(b) Except as provided in subdivision 10, a judge may elect to receive, instead of the normal retirement annuity, an optional retirement annuity in the form of either (1) an annuity payable for a period certain and for life after that period, (2) a joint and survivor annuity without reinstatement ~~in the event of~~ if the designated beneficiary ~~predeceases~~ predeceases the retired judge, or (3) a joint and survivor annuity with reinstatement ~~in the event of~~ if the designated beneficiary ~~predeceases~~ predeceases the retired judge.

(c) An optional retirement annuity must be actuarially equivalent to a single-life annuity with no term certain and must be established by the board of directors of the Minnesota State Retirement System. In establishing these optional retirement annuity forms, the board shall obtain the written recommendation of the actuary retained ~~by the Legislative Commission on Pensions and Retirement~~ under section 356.214. The recommendations must be retained as a part of the permanent records of the board.

Sec. 70. Minnesota Statutes 2004, section 490.124, subdivision 12, is amended to read:

Subd. 12. [REFUND.] (a) A person who ceases to be a judge ~~but who does not qualify for a retirement annuity or other benefit under section 490.121~~ is entitled to a refund in an amount that is equal to all of the member's employee contributions to the judges' retirement fund plus interest computed under section 352.22, subdivision 2.

(b) A refund of contributions under paragraph (a) terminates all service credits and all rights and benefits of the judge and the judge's survivors under this chapter.

(c) A person who becomes a judge again after taking a refund under paragraph (a) may reinstate the previously terminated allowable service credits credit, rights, and benefits by repaying the total amount of the previously received refund. The refund repayment must include interest on the total amount previously received at an annual rate of 8.5 percent, compounded annually, from the date on which the refund was received until the date on which the refund is repaid.

Sec. 71. Minnesota Statutes 2004, section 490.124, subdivision 13, is amended to read:

Subd. 13. [DEATH REFUND.] If a judge who has not received other benefits under this chapter dies and there are no survivor benefits payable under this chapter, a refund plus interest as provided in subdivision 12 is payable to the last designated beneficiary named on a form filed with the director before the death of the judge, or, if no designation is on file, ~~the refund is payable~~ to the estate of the deceased judge.

Sec. 72. Minnesota Statutes 2004, section 490.125, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY RETIREMENT AGE.] Except as otherwise provided in sections 490.121 to 490.132, ~~each a judge shall retire~~ terminate active service as a judge on the judge's mandatory retirement date.

Sec. 73. Minnesota Statutes 2004, section 490.126, is amended to read:

490.126 [PROCEDURES.]

Subdivision 1. [COMPULSORY RETIREMENT.] Proceedings for compulsory retirement of a judge, if necessary, ~~shall~~ must be conducted in accordance with rules issued by the Supreme Court ~~pursuant to~~ under section 490.16.

Subd. 2. [VACANCIES.] Any judge may make written application to the governor for retirement. The governor thereupon shall direct the judge's retirement by written order which, when filed in the Office of the Secretary of State, ~~shall effect~~ effects a vacancy in the office to be filled as provided by law.

Subd. 3. [APPLICATION FOR ANNUITY OR REFUND.] An application for an annuity or a refund under sections 490.121 to 490.132 may be made by the potential annuitant or by someone authorized to act for the potential annuitant. Every application for an annuity or refund, with accompanied by a proof of age and by a record of years of service when required, shall must be submitted to the governing body executive director of the Minnesota State Retirement System in a form prescribed by it the director.

Subd. 4. [MANNER OF PAYMENT.] Unless otherwise specifically provided by statute or agreed upon by the annuitant and the ~~governing body~~ board of directors of the Minnesota State Retirement System, annuities payable under sections 490.121 to 490.132 ~~shall must be paid~~ in the manner and at the intervals as prescribed by the executive director of the Minnesota State Retirement System. The annuity ~~shall cease~~ ceases with the last payment received by the annuitant while living.

Subd. 5. [EXEMPTION FROM PROCESS; NO ASSIGNMENT.] None of the money, annuities, or other benefits provided in this chapter is assignable either in law or equity or is subject to state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111.

Sec. 74. Minnesota Statutes 2004, section 490.133, is amended to read:

490.133 [RETIREMENT; TRANSITION PROVISIONS; TRANSFER TO COURT OF APPEALS.]

(a) If a judge to whom or to whose survivors benefits would be payable under Minnesota Statutes 2004, sections 490.101 to 490.12, is elected or appointed to the Court of Appeals, that judge and the judge's survivors, ~~shall~~ continue to be eligible for benefits under those sections and not under sections 490.121 to 490.132.

(b) In that the case of a judge to whom paragraph (a) applies, the service of the judge in the Court of Appeals shall must be added to the prior service as district judge, probate judge, or judge of any other court of record in determining eligibility and the compensation of a judge of the Court of Appeals at the time of the judge's death, disability, or retirement shall be is the "compensation allotted to the office" for the purposes of calculating benefit amounts.

(c) All other judges of the Court of Appeals and their survivors shall be are subject to the retirement and survivor's annuity provisions of sections 490.121 to 490.132.

Sec. 75. [490A.01] [BOARD OF JUDICIAL STANDARDS; ESTABLISHMENT.]

Subdivision 1. [ESTABLISHMENT; COMPOSITION.] The Board on Judicial Standards is established. The board is a continuation of the board established by Laws 1971, chapter 909, sections 1 and 2, as amended.

Subd. 2. [COMPOSITION; APPOINTMENT.] (a) The board consists of one judge of the Court of Appeals, three trial court judges, two lawyers who have practiced law in the state for at least ten years, and four citizens who are not judges, retired judges, or lawyers.

(b) All members must be appointed by the governor with the advice and consent of the senate. Senate confirmation is not required for judicial members.

Subd. 3. [TERM MAXIMUM; MEMBERSHIP TERMINATION.] No member may serve more than two full four-year terms or their equivalent. Membership terminates if a member ceases to hold the position that qualified the member for appointment.

Subd. 4. [MEMBER TERMS; COMPENSATION; REMOVAL.] The membership terms, compensation, removal of members, and filling of vacancies on the board are as provided in section 15.0575.

Subd. 5. [EXECUTIVE SECRETARY APPOINTMENT; SALARY.] (a) The board shall appoint the executive secretary.

(b) The salary of the executive secretary of the board is 85 percent of the maximum salary provided for an administrative law judge under section 15A.083, subdivision 6a.

Sec. 76. [490A.02] [JUDICIAL STANDARDS BOARD; POWERS.]

Subdivision 1. [JUDICIAL DISQUALIFICATION.] A judge is disqualified from acting as a judge, without a loss of salary, while there is pending an indictment or any information charging the judge with a crime that is punishable as a felony under either Minnesota law or federal law, or while there is pending a recommendation to the Supreme Court by the Board on Judicial Standards for the judge's removal or retirement.

Subd. 2. [JUDICIAL SUSPENSION.] On receipt of a recommendation of the Board on Judicial Standards or on its own motion, the Supreme Court may suspend a judge from office without salary when the judge pleads guilty to or no contest to or is found guilty of a crime that is punishable as a felony under either Minnesota law or federal law or any other crime that involves moral turpitude. If the conviction is reversed, the suspension terminates and the judge must be paid a salary for the period of suspension. If the judge is suspended and the conviction becomes final, the Supreme Court shall remove the judge from office.

Subd. 3. [JUDICIAL DISABILITY.] On receipt of a recommendation of the Board on Judicial Standards, the Supreme Court may retire a judge for a disability that the court determines seriously interferes with the performance of the judge's duties and is or is likely to become permanent, and censure or remove a judge for an action or inaction that may constitute persistent failure to perform the judge's duties, incompetence in performing the judge's duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

Subd. 4. [AUTHORITY TO REOPEN MATTERS.] The board is specifically empowered to reopen any matter wherein any information or evidence was previously precluded by a statute of limitations or by a previously existing provision of time limitation.

Subd. 5. [RETIREMENT STATUS.] (a) A judge who is retired by the Supreme Court must be considered to have retired voluntarily.

(b) This section and section 490A.01 must not affect the right of a judge who is suspended, retired, or removed hereunder from qualifying for any pension or other retirement benefits to which the judge would otherwise be entitled by law to receive.

Subd. 6. [ELIGIBILITY FOR JUDICIAL OFFICE; PRACTICE LAW.] A judge removed by the Supreme Court is ineligible for any future service in a judicial office. The question of the right of a removed judge to practice law in this state must be referred to the proper authority for review.

Subd. 7. [SUPREME COURT RULES.] The Supreme Court shall make rules to implement this section.

Sec. 77. [REPEALER; EFFECT ON BENEFIT COVERAGE.]

Subdivision 1. [LEGISLATORS RETIREMENT PLAN; REPEALED AS OBSOLETE.] Minnesota Statutes 2004, sections 3A.01, subdivisions 3, 4, 6a, and 7; 3A.02, subdivision 2; 3A.04, subdivision 1; and 3A.09, are repealed.

Subd. 2. [ELECTIVE STATE OFFICERS RETIREMENT PLAN; REPEALED AS OBSOLETE.] Minnesota Statutes 2004, sections 352C.01; 352C.011; 352C.021; 352C.031; 352C.033; 352C.04; 352C.051; 352C.09; and 352C.091, subdivisions 2 and 3, are repealed.

Subd. 3. [JUDICIAL RETIREMENT PLANS; REPEALED AS OBSOLETE.] Minnesota Statutes 2004, sections 490.021; 490.025, subdivisions 1, 2, 3, 4, and 6; 490.101; 490.102; 490.103; 490.105; 490.106; 490.107; 490.108; 490.109; 490.1091; 490.12; and 490.121, subdivisions 2, 3, 5, 8, 9, 10, 11, 12, 16, 17, 18, 19, and 20, are repealed.

Subd. 4. [JUDICIAL STANDARDS BOARD; REPEALED FOR RELOCATION AS MINNESOTA STATUTES, CHAPTER 490A.] Minnesota Statutes 2004, sections 490.021; 490.025, subdivisions 1, 2, 3, 4, and 6; 490.101; 490.102; 490.103; 490.105; 490.106; 490.107; 490.108; 490.109; 490.1091; 490.12; and 490.121, subdivisions 2, 3, 5, 8, 9, 10, 11, 12, 16, 17, 18, 19, and 20, are repealed.

Subd. 5. [UNIFORM JUDICIAL RETIREMENT PLAN; NO BENEFIT DIMINISHMENT INTENDED; PROCEDURE.] Sections 32 to 76 are not intended to reduce or increase the entitlement of active, deferred, or retired judges to retirement annuities or benefits as of July 1, 2005, as reflected in the records of the Minnesota State Retirement System. If the executive director of the Minnesota State Retirement System determines that any provisions of sections 32 to 76 functions to modify, impair, or diminish the retirement annuity or benefit entitlement of any judge that had accrued or earned before July 1, 2005, the executive director shall certify that determination and a recommendation as to the required legislative correction to the chair of the Legislative Commission on Pensions and Retirement, the chair of the senate State and Local Government Operations Committee, the chair of the house Governmental Operations and Veterans Affairs Policy Committee, and the executive director of the Legislative Commission on Pensions and Retirement on or before the October 1 next following that determination.

Sec. 78. [EFFECTIVE DATE.]

Sections 1 to 77 are effective on July 1, 2005.

## ARTICLE 2

### COVERED SALARY; AVERAGE SALARY

Section 1. Minnesota Statutes 2004, section 352.01, is amended by adding a subdivision to read:

Subd. 14a. [AVERAGE SALARY.] (a) "Average salary" means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.

(b) "Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary disability.

(c) For an employee covered by the correctional state employees retirement plan, "average salary" means the average of the monthly salary during the employee's highest five successive years of salary as an employee covered by the general state employees retirement plan, or the correctional state employees retirement plan, or by a combination of the two. If the total of the covered service is less than five years, the determination of average salary must be based on all allowable service.

Sec. 2. Minnesota Statutes 2004, section 352.115, subdivision 2, is amended to read:

Subd. 2. [~~AVERAGE SALARY NORMAL RETIREMENT ANNUITY.~~] The retirement annuity hereunder payable at normal retirement age or thereafter must be computed in accordance with the applicable provisions of the formula stated in subdivision 3, on the basis of the employee's average salary for the period of allowable service. This retirement annuity is known as the "normal" retirement annuity.

~~For each year of allowable service, "average salary" of an employee in determining a retirement annuity means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.~~

~~"Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary disability.~~

Sec. 3. Minnesota Statutes 2004, section 352.115, subdivision 3, is amended to read:

Subd. 3. [~~RETIREMENT ANNUITY FORMULA.~~] (a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply. The employee's average salary, as defined in section 352.01, subdivision 2 14a, multiplied by the percent specified in section 356.315, subdivision 1, per year of allowable service for the first ten years and the percent specified in section 356.315, subdivision 2, for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

(b) This paragraph applies to a person who has become at least 55 years old and first became a covered employee after June 30, 1989, and to any other covered employee who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in section 352.01, subdivision 2 14a, multiplied by the percent specified in section 356.315, subdivision 2, for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

Sec. 4. Minnesota Statutes 2004, section 352.87, subdivision 3, is amended to read:

Subd. 3. [~~RETIREMENT ANNUITY FORMULA.~~] A person specified in subdivision 1 ~~will have~~ is entitled to receive a retirement annuity applicable for allowable service credit under this section ~~calculated by multiplying the employee's average salary, as defined in section 352.115 352.01, subdivision 2 14a, by the percent specified in section 356.315, subdivision 2a, for each year or portions of a year of allowable service credit. No reduction for retirement prior to before the normal retirement age, as specified in section 352.01, subdivision 25, applies to service to which this section applies.~~

Sec. 5. Minnesota Statutes 2004, section 352.93, subdivision 1, is amended to read:

Subdivision 1. [BASIS OF ANNUITY; WHEN TO APPLY.] After separation from state service, an employee covered under section 352.91 who has reached age 55 years and has credit for at least three years of covered correctional service or a combination of covered correctional service and ~~regular Minnesota general employees state retirement System plan~~ service is entitled upon application to a retirement annuity under this section, based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

~~In this section, "average salary" means the average of the monthly salary during the employee's highest five successive years of salary as an employee covered by the Minnesota State Retirement System. Average salary must be based upon all allowable service if this service is less than five years.~~

Sec. 6. Minnesota Statutes 2004, section 352C.021, is amended by adding a subdivision to read:

Subd. 1a. [AVERAGE SALARY.] "Average salary," for purposes of calculating the normal retirement annuity under section 352C.031, subdivision 4, means the average of the highest five successive years of salary upon which contributions have been made under section 352C.09.

Sec. 7. Minnesota Statutes 2004, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "Salary" means:

(1) the periodic compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees;

(2) for a public employee who is covered by a supplemental retirement plan under section 356.24, subdivision 1, clause (8), (9), or (10), which require all plan contributions be made by the employer, the contribution to the applicable supplemental retirement plan when the contribution is from mandatory withholdings from employees' wages; and

~~(2) (3) for a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies and who has elected coverage either under the public employees police and fire fund benefit plan under section 353A.08 following the consolidation or under section 353.665, subdivision 4, the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodic compensation of the public employee after the effective date of consolidation.~~

(b) Salary does not mean:

(1) the fees paid to district court reporters, unused annual vacation or sick leave payments, in lump-sum or periodic payments, severance payments, reimbursement of expenses, lump-sum settlements not attached to a specific earnings period, or workers' compensation payments;

(2) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(3) the amount equal to that which the employing governmental subdivision would otherwise pay toward single or family insurance coverage for a covered employee when, through a contract or agreement with some but not all employees, the employer:

(i) discontinues, or for new hires does not provide, payment toward the cost of the employee's selected insurance coverages under a group plan offered by the employer;



(ii) makes the employee solely responsible for all contributions toward the cost of the employee's selected insurance coverages under a group plan offered by the employer, including any amount the employer makes toward other employees' selected insurance coverages under a group plan offered by the employer; and

(iii) provides increased salary rates for employees who do not have any employer-paid group insurance coverages;

(4) except as provided in section 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivision 35 or 36; and

(5) the amount of compensation that exceeds the limitation provided in section 356.611.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 8. Minnesota Statutes 2004, section 353.01, is amended by adding a subdivision to read:

Subd. 17a. [AVERAGE SALARY.] (a) "Average salary," for purposes of calculating a retirement annuity under section 353.29, subdivision 3, means an amount equivalent to the average of the highest salary of the member, police officer, or firefighter, whichever applies, upon which employee contributions were paid for any five successive years of allowable service, based on dates of salary periods as listed on salary deduction reports. Average salary must be based upon all allowable service if this service is less than five years.

(b) "Average salary" may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability, unless the average salary is higher, including this period.

Sec. 9. Minnesota Statutes 2004, section 353.29, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] (a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision 5, produces a higher annuity amount, in which case paragraph (b) will apply. The average salary as defined in section 353.01, subdivision 2 17a, multiplied by the percent specified in section 356.315, subdivision 3, for each year of allowable service for the first ten years and thereafter by the percent specified in section 356.315, subdivision 4, per year of allowable service and completed months less than a full year for the "basic member," and the percent specified in section 356.315, subdivision 1, for each year of allowable service for the first ten years and thereafter by the percent specified in section 356.315, subdivision 2, per year of allowable service and completed months less than a full year for the "coordinated member," shall determine the amount of the "normal" retirement annuity.

(b) This paragraph applies to a member who has become at least 55 years old and first became a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in section 353.01, subdivision 2 17a, multiplied by the percent specified in section 356.315, subdivision 4, for each year of allowable service and completed months less than a full year for a basic member and the percent specified in section 356.315, subdivision 2, per year of allowable service and completed months less than a full year for a coordinated member, shall determine the amount of the normal retirement annuity.

Sec. 10. Minnesota Statutes 2004, section 353.33, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] This disability benefit is an amount equal to the normal annuity payable to a member who has reached normal retirement age with the same number of years of allowable service and the same average salary, as provided in section 353.01, subdivision 17a, and section 353.29, subdivisions 2 and subdivision 3.

A basic member shall receive a supplementary monthly benefit of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

If the disability benefits under this subdivision exceed the average salary as defined in section 353.29 ~~353.01~~, subdivision 2 ~~17a~~, the disability benefits must be reduced to an amount equal to ~~said the~~ average salary.

Sec. 11. Minnesota Statutes 2004, section 353.651, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] The average salary as defined in section 353.01, subdivision 2 ~~17a~~, multiplied by the percent specified in section 356.315, subdivision 6, per year of allowable service determines the amount of the normal retirement annuity. If the member has earned allowable service for performing services other than those of a police officer or firefighter, the annuity representing ~~such~~ that service is must be computed under sections 353.29 and 353.30.

Sec. 12. Minnesota Statutes 2004, section 353.656, subdivision 1, is amended to read:

Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF BENEFITS.] A member of the police and fire plan who becomes disabled and physically unfit to perform duties as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which has or is expected to render the member physically or mentally unable to perform the duties as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, for a period of at least one year, shall receive disability benefits during the period of such disability. The benefits must be in an amount equal to 60 percent of the "average salary" as defined in section ~~353.651~~ 353.01, subdivision 2 ~~17a~~, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years. If the disability under this subdivision occurs before the member has at least five years of allowable service credit in the police and fire plan, the disability benefit must be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Sec. 13. Minnesota Statutes 2004, section 354.05, is amended by adding a subdivision to read:

Subd. 13a. [AVERAGE SALARY.] (a) "Average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made for the highest five successive years of formula service credit.

(b) "Average salary" may not include any more than the equivalent of 60 monthly salary payments.

(c) "Average salary" must be based upon all years of formula service credit if this service credit is less than five years.

Sec. 14. Minnesota Statutes 2004, section 354.44, subdivision 6, is amended to read:

Subd. 6. [COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY.] (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in paragraph (b) or (d) on the basis of each member's average salary under section 354.05, subdivision 13a, for the period of the member's formula service credit.

~~For all years of formula service credit, "average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511, for the highest five successive years of formula service credit provided, however, that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of formula service credit if this service credit is less than five years.~~

(b) This paragraph, in conjunction with paragraph (c), applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3,

before July 1, 1989, unless paragraph (d), in conjunction with paragraph (e), produces a higher annuity amount, in which case paragraph (d) applies. The average salary as defined in ~~paragraph (a)~~ section 354.05, subdivision 13a, multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

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

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

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

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

(d) This paragraph applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this paragraph and in conjunction with paragraph (e), is higher than it is when calculated under paragraph (b), in conjunction with paragraph (c). The average salary, as defined in ~~paragraph (a)~~ section 354.05, subdivision 13a, multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member and by the percent specified in section 356.315, subdivision 2, for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

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

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

Sec. 15. Minnesota Statutes 2004, section 354A.011, is amended by adding a subdivision to read:

Subd. 7a. [AVERAGE SALARY.] "Average salary," for purposes of computing a normal coordinated program retirement annuity under section 354A.31, subdivision 4 or 4a, means an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit but may not in any event include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of service credit if this service credit is less than five years.

Sec. 16. Minnesota Statutes 2004, section 354A.31, subdivision 4, is amended to read:

Subd. 4. [COMPUTATION OF THE NORMAL COORDINATED RETIREMENT ANNUITY; MINNEAPOLIS AND ST. PAUL FUNDS.] (a) This subdivision applies to the coordinated programs of the Minneapolis Teachers Retirement Fund Association and the St. Paul Teachers Retirement Fund Association.

(b) ~~The normal coordinated retirement annuity shall be is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage. Average salary for purposes of this section shall mean an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit, but which shall not in any event include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of service credit if this service credit is less than five years.~~

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) will apply. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each year of coordinated service thereafter.

(d) This paragraph applies to a person who has become at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7 is higher than it is when calculated under paragraph (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service.

Sec. 17. Minnesota Statutes 2004, section 354A.31, subdivision 4a, is amended to read:

Subd. 4a. [COMPUTATION OF THE NORMAL COORDINATED RETIREMENT ANNUITY; DULUTH FUND.] (a) This subdivision applies to the new law coordinated program of the Duluth Teachers Retirement Fund Association.

(b) ~~The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage. Average salary for purposes of this section means an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit, but may not in any event include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of service credit if this service credit is less than five years.~~

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) applies. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of

coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each subsequent year of coordinated service.

(d) This paragraph applies to a person who is at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who is at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7, is higher than it is when calculated under paragraph (c) in conjunction with subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service.

Sec. 18. Minnesota Statutes 2004, section 422A.01, is amended by adding a subdivision to read:

Subd. 4a. [AVERAGE SALARY.] (a) "Average salary" means the arithmetic average annual salary, wages, or compensation of the member from the city for any five calendar years out of the last ten calendar years of service, except as provided for in section 422A.16, which may include the year in which the employee retires, as selected by the employee.

(b) A member with more than five calendar years of service but less than ten calendar years may select any five calendar years of service to determine the average salary. A member with less than five years of service with the city shall use all earnings to determine the average salary.

Sec. 19. Minnesota Statutes 2004, section 422A.15, subdivision 1, is amended to read:

Subdivision 1. [FORMULA PENSION AND ANNUITY.] Except as otherwise provided in subdivision 3, each contributing member who, at the time of retirement, fulfills the conditions necessary to enable the member to retire, shall be entitled to receive what shall be known as a "formula pension and annuity" equal to two percent for each year of allowable service for the first ten years and thereafter 2.5 percent per year of allowable service of the arithmetic average annual salary, wages or compensation of the member from the city for any five calendar years out of the last ten calendar years of service except as provided for in section 422A.16, which may include the year in which the employee retires, as selected by the employee, multiplied by the years of service credited by the retirement fund. The formula pension and annuity shall be computed on the single life plan but subject to the option selections provided for in section 422A.17.

In order to be entitled to the formula pension and annuity herein provided for, the retiring employee at the time of cessation of employment and of actual retirement shall must have attained the age of 60 years or have been employed by the city not less than 30 years, or meet the qualifications provided for in section 422A.16, and in addition thereto have contributed to the retirement fund at the percentage rate prescribed by the retirement law applicable when the salary, wages or compensation was paid on all salaries, wages, or compensation received from the city or from an applicable employing unit. The years of service to be applied in the formula pension and annuity shall must be found and determined by the retirement board, except that no credit shall may be allowed for any year in which a back charge is owing at time of retirement and the earnings from any year in which a back charge is owing shall may not be used in determining the average annual salary.

Sec. 20. Minnesota Statutes 2004, section 422A.16, subdivision 9, is amended to read:

Subd. 9. [INCOMPETENCY OR DEATH OF MEMBER.] Any member of the contributing class who becomes permanently separated from the service of the city under subdivision 8, may, by an instrument in writing, filed with the municipal employees retirement board within 30 days after such the separation becomes permanent, elect to allow the member contributions to such the fund to the date of separation to remain on deposit in such the fund, and in such the event the member shall be is entitled to receive a retirement allowance at age 65, provided the member, or someone acting in the member's behalf if the member be incompetent, shall must make a written application for such the retirement allowance in the same manner provided for in section 422A.17 and in accordance with the provisions of section 422A.15, subdivision 1, except for determining average annual salary. A member with more than five calendar years of service but less than ten calendar years may select any five calendar years of service to determine the average annual

salary. A member with less than five years of service with the city shall use all earnings to determine the average annual salary.

If the contributing member dies before reaching the age of 65 years, or having attained the age of 65 years without having made the election provided for herein, the net accumulated amount of deductions from the member's salary, pay or compensation, plus interest, to the member's credit on date of death shall be paid is payable to such the person or persons as have been nominated by written designation filed with the retirement board, in such the form as that the retirement board shall require requires.

If the employee fails to make a designation, or if the person or persons designated by such the employee predeceases such the employee, the net accumulated credit to such the employee's account on date of death shall be paid is payable to such the employee's estate.

The provisions of subdivisions 4, 5, and 6 shall also apply to any member qualifying for benefits under this subdivision, except for purposes of this subdivision the age referred to in subdivision 4 shall be is 65 years.

Sec. 21. Minnesota Statutes 2004, section 490.121, subdivision 21, is amended to read:

Subd. 21. [FINAL AVERAGE COMPENSATION.] "Final average compensation" means the total amount of salary payable paid to a judge in the highest five years out of the last ten years prior to before the event of maturity of benefits termination of judicial service, divided by five; provided, however, that if the number of years of service by the judge equals or exceeds ten. If the number of years of service by the judge is less than ten, but more than five, the highest five shall years of salary must be counted, and. If the number of years of service by the judge is less than five, the aggregate salary in such for the period shall of service must be divided by the number of months in such the period and multiplied by 12.

Sec. 22. [REPEALER.]

Minnesota Statutes 2004, sections 352C.031, subdivision 3; 353.29, subdivision 2; and 353.651, subdivision 2, are repealed.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 22 are effective July 1, 2005.

### ARTICLE 3

#### ALLOWABLE SERVICE CREDIT

Section 1. [356.195] [SERVICE CREDIT PURCHASE PROCEDURES FOR STRIKE PERIODS.]

Subdivision 1. [COVERED PLANS.] This section applies to all defined benefit plans specified in section 356.30, subdivision 3.

Subd. 2. [PURCHASE PROCEDURE FOR STRIKE PERIODS.] (a) An employee covered by a plan specified in subdivision 1 may purchase allowable service credit in the applicable plan for any period of time during which the employee was on a public employee strike without pay, not to exceed a period of one year, if the employee makes a payment in lieu of salary deductions as specified in paragraphs (b) and (c), whichever is applicable. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the applicable pension plan executive director within one year from the end of the strike, the payment amount is equal to the applicable employee and employer contribution rates specified in law for the applicable plan during the strike period, applied to the employee's rate of salary in effect at the conclusion of the strike for the period of the strike without pay, plus compound interest at a monthly rate of 0.71 percent from the last day of the strike period until the date payment is received.

(c) If payment is received by the applicable pension fund director after one year and before five years from the end of the strike, the payment amount is the amount determined under section 356.551.

(d) Payments may not be made more than five years after the end of the strike.

Sec. 2. Minnesota Statutes 2004, section 490.121, subdivision 4, is amended to read:

Subd. 4. [ALLOWABLE SERVICE.] (a) "Allowable service" means any calendar month, subject to the service credit limit in subdivision 22, served as a judge at any time, or served as a referee in probate for all referees in probate who were in office prior to January 1, 1974.

(b) "Allowable service" also means a period of authorized leave of absence for which the judge has made a payment in lieu of contributions, not in an amount in excess of the service credit limit under subdivision 22. To obtain the service credit, the judge shall pay an amount equal to the member and employer contribution rates under section 490.123, subdivisions 1a and 1b, applied to the judge's average monthly salary rate during the authorized leave of absence and multiplied by the number of months of the authorized leave of absence, plus annual compound interest at the rate of 8.5 percent from the date of the termination of the leave to the date on which payment is made. The payment must be made within one year of the date on which the authorized leave of absence terminated. Service credit for an authorized leave of absence is in addition to a uniformed service leave under section 490.1211.

Sec. 3. Laws 1999, chapter 222, article 16, section 16, as amended by Laws 2002, chapter 392, article 7, section 1, and Laws 2003, First Special Session chapter 12, article 6, section 2, and Laws 2004, chapter 267, article 17, section 6, is amended to read:

Sec. 16. [REPEALER.]

(a) Sections 2 to 6 and 8 to 13 are repealed on May 16, 2004.

(b) Sections 1 and 7 are repealed on May 16, ~~2006~~ 2007.

Sec. 4. Laws 2000, chapter 461, article 4, section 4, as amended by Laws 2003, First Special Session chapter 12, article 6, section 3, and Laws 2004, chapter 267, article 17, section 7, is amended to read:

Sec. 4. [EFFECTIVE DATE; SUNSET REPEALER.]

(a) Sections 1, 2, and 3 are effective on the day following final enactment.

(b) Sections 1, 2, and 3, are repealed on May 16, ~~2006~~ 2007.

Sec. 5. [METRO TRANSIT STRIKE PROVISION.]

Notwithstanding the payment deadline specified in Minnesota Statutes, section 356.195, subdivision 2, paragraph (b), a Metro Transit employee covered by the general state employees retirement plan of the Minnesota State Retirement System who was on strike on or after January 1, 2004, and before the effective date of this section, is authorized to make a payment under that paragraph on or before one year after the effective date of this section.

Sec. 6. [CROSBY-IRONTON PUBLIC SCHOOL STRIKE PROVISION.]

Notwithstanding the payment deadline specified in Minnesota Statutes, section 356.195, subdivision 2, paragraph (b), a Crosby-Ironton public school teacher covered by the Teachers Retirement Association who was on strike during a period that included April 1, 2005, and before the effective date of this section, is authorized to make a payment under that paragraph on or before one year after the effective date of this section.

Sec. 7. [EFFECTIVE DATE.]

(a) Sections 1, 3, 4, 5, and 6 are effective the day following final enactment.

(b) Section 2 is effective retroactively from January 1, 2005, and applies to any person who was in active service as a judge on or after that date and applies to an authorized leave of absence that occurred before or after that date. For a person for whom section 2 is retroactive, the equivalent contribution payment must be made on or before July 1, 2006.

#### ARTICLE 4

### ACTUARIAL AND FINANCIAL REPORTING CHANGES

Section 1. Minnesota Statutes 2004, section 352.01, subdivision 12, is amended to read:

Subd. 12. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date at a specified age with each actuarial present value based on the appropriate mortality table adopted by the board of directors based on the experience of the fund as recommended by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 2. Minnesota Statutes 2004, section 353.01, subdivision 14, is amended to read:

Subd. 14. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 3. Minnesota Statutes 2004, section 354.05, subdivision 7, is amended to read:

Subd. 7. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the board of trustees based on the experience of the association as recommended by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 4. Minnesota Statutes 2004, section 354A.011, subdivision 3a, is amended to read:

Subd. 3a. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the appropriate board of trustees based on the experience of that retirement fund association as recommended by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 5. Minnesota Statutes 2004, section 356.20, subdivision 4, is amended to read:

Subd. 4. [CONTENTS OF FINANCIAL REPORT.] (a) The financial report required by this section must contain financial statements and disclosures that indicate the financial operations and position of the retirement plan and fund. The report must conform with generally accepted governmental accounting principles, applied on a consistent basis. The report must be audited. The report must include, as part of its exhibits or its footnotes, an actuarial disclosure item based on the



actuarial valuation calculations prepared by the ~~commission-retained~~ actuary retained under section 356.214 or by the actuary retained by the retirement fund or plan, ~~if applicable~~ whichever applies, according to applicable actuarial requirements enumerated in section 356.215, and specified in the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement. The accrued assets, the accrued liabilities, including accrued reserves, and the unfunded actuarial accrued liability of the fund or plan must be disclosed. The disclosure item must contain a declaration by the actuary retained ~~by the Legislative Commission on Pensions and Retirement~~ under section 356.214 or the actuary retained by the fund or plan, whichever applies, specifying that the required reserves for any retirement, disability, or survivor benefits provided under a benefit formula are computed in accordance with the entry age actuarial cost method and in accordance with the most recent applicable standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(b) Assets of the fund or plan contained in the disclosure item must include the following statement of the actuarial value of current assets as defined in section 356.215, subdivision 1:

|   | Value<br>at cost | Value<br>at market |
|---|------------------|--------------------|
| Cash, cash equivalents, and<br>short-term securities  | .....            | .....              |
| Accounts receivable   | .....            | .....              |
| Accrued investment income   | .....            | .....              |
| Fixed income investments  | .....            | .....              |
| Equity investments other<br>than real estate  | .....            | .....              |
| Real estate investments   | .....            | .....              |
| Equipment   | .....            | .....              |
| <u>Equity Participation in the Minnesota</u><br>postretirement investment<br>fund <u>or the retirement</u><br><u>benefit fund</u> | .....            | .....              |
| Other   | .....            | .....              |
| <br>Total assets  |                  |                    |
| Value at cost   |                  | .....              |
| Value at market   |                  | .....              |
| <u>Actuarial value of current assets</u>  |                  | .....              |

(c) The unfunded actuarial accrued liability of the fund or plan contained in the disclosure item must include the following measures of unfunded actuarial accrued liability, using the actuarial value of current assets:

(1) the unfunded actuarial accrued liability, determined by subtracting the current assets and the present value of future normal costs from the total current and expected future benefit obligations; and

(2) the unfunded pension benefit obligation, determined by subtracting the current assets from the actuarial present value of credited projected benefits.

If the current assets of the fund or plan exceed the actuarial accrued liabilities, the excess must be disclosed and indicated as a surplus.

(d) The pension benefit obligations schedule included in the disclosure must contain the following information on the benefit obligations:

(1) the pension benefit obligation, determined as the actuarial present value of credited projected benefits on account of service rendered to date, separately identified as follows:

- (i) for annuitants;
  - retirement annuities;
  - disability benefits;
  - surviving spouse and child benefits;
- (ii) for former members without vested rights;
- (iii) for deferred annuitants' benefits, including any augmentation;
- (iv) for active employees;
  - accumulated employee contributions, including allocated investment income;
  - employer-financed benefits vested;
  - employer-financed benefits nonvested;
  - total pension benefit obligation; and

(2) if there are additional benefits not appropriately covered by the foregoing items of benefit obligations, a separate identification of the obligation.

(e) The report must contain an itemized exhibit describing the administrative expenses of the plan, including, but not limited to, the following items, classified on a consistent basis from year to year, and with any further meaningful detail:

- (1) personnel expenses;
- (2) communication-related expenses;
- (3) office building and maintenance expenses;
- (4) professional services fees; and
- (5) other expenses.

(f) The report must contain an itemized exhibit describing the investment expenses of the plan, including, but not limited to, the following items, classified on a consistent basis from year to year, and with any further meaningful detail:

- (1) internal investment-related expenses; and
- (2) external investment-related expenses.

(g) Any additional statements or exhibits or more detailed or subdivided itemization of a disclosure item that will enable the management of the fund to portray a true interpretation of the fund's financial condition must be included in the additional statements or exhibits.

Sec. 6. Minnesota Statutes 2004, section 422A.01, subdivision 6, is amended to read:

Subd. 6. [PRESENT WORTH OR PRESENT VALUE.] "Present worth" or "present value" means that the present amount of money if increased at the applicable postretirement or preretirement interest rate assumption specified in section 356.215, subdivision 8, and based on the mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained by the Legislative Commission on Pensions and Retirement under section 356.214, and approved under section 356.215, subdivision 18, will at retirement equal the actuarial accrued liability of the annuity already earned.

Sec. 7. Minnesota Statutes 2004, section 490.121, subdivision 20, is amended to read:

Subd. 20. [ACTUARIAL EQUIVALENT.] "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the board of trustees directors of the Minnesota State Retirement System based on the experience of the fund as recommended by the ~~commission-retained~~ actuary retained under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 8. [EFFECTIVE DATE.]

(a) Sections 1 to 4, 6, and 7 are effective on July 1, 2005.

(b) Section 5 is effective the day following final enactment and applies to annual financial reporting occurring on or after June 30, 2005.

ARTICLE 5  
MEMBERSHIP INCLUSIONS  
AND EXCLUSIONS

Section 1. Minnesota Statutes 2004, section 69.011, is amended by adding a subdivision to read:

Subd. 2c. [INELIGIBILITY OF CERTAIN POLICE OFFICERS.] A police officer employed by the University of Minnesota who is required by the Board of Regents to be a member of the University of Minnesota faculty retirement plan is not eligible to be included in any police state aid certification under this section.

Sec. 2. Minnesota Statutes 2004, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. [INCLUDED EMPLOYEES.] (a) "State employee" includes:

- (1) employees of the Minnesota Historical Society;
- (2) employees of the State Horticultural Society;
- (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;
- (4) employees of the Minnesota Crop Improvement Association;
- (5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- (6) employees of the Minnesota State Colleges and Universities employed under the university or college activities program;
- (7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);
- (8) employees of the Armory Building Commission;
- (9) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
- (10) trainees who are employed on a full-time established training program performing the

duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;

(11) employees of the Minnesota Safety Council;

(12) any employees on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;

(13) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control Commission, or Metropolitan Radio Board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;

(14) judges of the Tax Court;

(15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization; and

(16) seasonal help in the classified service employed by the Department of Revenue; and

(17) persons employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

Sec. 3. Minnesota Statutes 2004, section 352.91, is amended by adding a subdivision to read:

Subd. 4a. [PROCESS FOR EVALUATING AND RECOMMENDING POTENTIAL EMPLOYMENT POSITIONS FOR MEMBERSHIP INCLUSION.] (a) The Department of Corrections and the Department of Human Services must establish a procedure for evaluating periodic requests by department employees for qualification for recommendation by the commissioner for inclusion of the employment position in the correctional facility or human services facility in the correctional retirement plan and for periodically determining employment positions that no longer qualify for continued correctional retirement plan coverage.

(b) The procedure must provide for an evaluation of the extent of the employee's working time spent in direct contact with patients or inmates, the extent of the physical hazard that the employee is routinely subjected to in the course of employment, and the extent of intervention routinely expected of the employee in the event of a facility incident. The percentage of routine direct contact with inmates or patients may not be less than 75 percent.

(c) The applicable commissioner shall notify the employee of the determination of the appropriateness of recommending the employment position for inclusion in the correctional retirement plan, if the evaluation procedure results in a finding that the employee:

(1) routinely spends 75 percent of the employee's time in direct contact with inmates or patients; and

(2) is regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates or patients.

(d) After providing the affected employee an opportunity to dispute or clarify any evaluation determinations, if the commissioner determines that the employment position is appropriate for

inclusion in the correctional retirement plan, the commissioner shall forward that recommendation and supporting documentation to the chair of the Legislative Commission on Pensions and Retirement, the chair of the State and Local Governmental Operations Committee of the senate, the chair of the Governmental Operations and Veterans Affairs Policy Committee of the house of representatives, and the executive director of the Legislative Commission on Pensions and Retirement in the form of the appropriate proposed legislation. The recommendation must be forwarded to the legislature before January 15 for the recommendation to be considered in that year's legislative session.

Sec. 4. Minnesota Statutes 2004, section 352B.01, subdivision 2, is amended to read:

Subd. 2. [MEMBER.] "Member" means:

(1) a State Patrol member currently employed after June 30, 1943, 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 defined as a peace officer in section 626.84, subdivision 1, paragraph (c), and employed with the Division of Alcohol and Gambling Enforcement under section 299L.01; and

(6) a Fugitive Apprehension Unit officer after October 31, 2000, employed by the Office of Special Investigations of the Department of Corrections who is a peace officer under section 626.84; and

(7) an employee of the Department of Commerce defined as a peace officer in section 626.84, subdivision 1, paragraph (c), who is employed by the Division of Insurance Fraud Prevention under section 45.0135 after January 1, 2005, and who has not attained the mandatory retirement age specified in section 43A.34, subdivision 4.

Sec. 5. Minnesota Statutes 2004, section 353.01, subdivision 6, is amended to read:

Subd. 6. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Metropolitan Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the 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, and the Dakota County Agricultural Society.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis Community Development Agency.

Sec. 6. Minnesota Statutes 2004, section 353.64, is amended by adding a subdivision to read:

Subd. 6a. [UNIVERSITY OF MINNESOTA POLICE OFFICERS; EXCLUSION.] (a) Unless paragraph (b) applies, a person who is employed as a peace officer by the University of Minnesota at any campus or facility of the university, who is required by the university to be and is licensed as a peace officer by the Minnesota Peace Officer Standards and Training Board under sections 626.84 to 626.863, and who has the full power of arrest is a member of the public employees police and fire retirement plan.

(b) A police officer employed by the University of Minnesota who is required by the Board of Regents to contribute to the University of Minnesota faculty retirement plan is not eligible to be a member of the public employees police and fire retirement plan.

Sec. 7. [EFFECTIVE DATE.]

(a) Sections 1, 3, 5, and 6 are effective July 1, 2005.

(b) Sections 2 and 4 are effective retroactively from January 1, 2005.

## ARTICLE 6

### RETIREMENT CONTRIBUTIONS

Section 1. Minnesota Statutes 2004, section 353.28, subdivision 5, is amended to read:

Subd. 5. [INTEREST CHARGES CHARGEABLE ON AMOUNTS DUE.] Any amount due under this section or section 353.27, subdivision 4, is payable with interest at an annual compound rate of 8.5 percent compounded annually from the date due until the date payment is received by the association, with a minimum interest charge of \$10. Interest for past due payments of excess police state aid under section 69.031, subdivision 5, must be charged at an annual rate of 8.5 percent compounded annually.

Sec. 2. Minnesota Statutes 2004, section 353.28, subdivision 6, is amended to read:

Subd. 6. [FAILURE TO PAY COLLECTION OF UNPAID AMOUNTS.] (a) If the a governmental subdivision which receives the direct proceeds of property taxation fails to pay amounts an amount due under chapters chapter 353, 353A, 353B, 353C, and or 353D or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5, the executive director shall certify those amounts the amount to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts the amount to the applicable county auditor for collection. The county auditor shall collect such amounts the amount out of the revenue of the governmental subdivision, or shall add them the amount to the levy of the governmental subdivision and make payment directly to the association. This tax shall must be levied, collected, and apportioned in the manner that other taxes are levied, collected, and apportioned.

(b) If a governmental subdivision which is not funded directly from the proceeds of property taxation fails to pay an amount due under this chapter, the executive director shall certify the amount to the governmental subdivision for payment. If the governmental subdivision fails to pay

the amount for a period of 60 days after certification, the executive director shall certify the amount to the commissioner of finance, who shall deduct the amount from any subsequent state-aid payment or state appropriation amount applicable to the governmental subdivision.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 2005.

#### ARTICLE 7

#### PENSION BENEFITS UPON PRIVATIZATION

Section 1. Minnesota Statutes 2004, section 353F.02, subdivision 4, is amended to read:

Subd. 4. [MEDICAL FACILITY.] "Medical facility" means:

- (1) Bridges Medical Services;
- (2) the Fair Oaks Lodge, Wadena;
- ~~(2)~~ (3) the Glencoe Area Health Center;
- ~~(3)~~ (4) the Hutchinson Area Health Care;
- (5) the Kanabec Hospital;
- ~~(4)~~ (6) the Luverne Public Hospital;
- (7) the Northfield Hospital;
- ~~(5)~~ (8) the RenVilla Nursing Home;
- ~~(6)~~ (9) the Renville County Hospital in Olivia;
- ~~(7)~~ (10) the St. Peter Community Healthcare Center; and
- ~~(8)~~ (11) the Waconia-Ridgeview Medical Center.

Sec. 2. Laws 2004, chapter 267, article 12, section 4, is amended to read:

Sec. 4. [EFFECTIVE DATE.]

(a) Section 1, relating to the Fair Oaks Lodge, Wadena, is effective upon the latter of:

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

(2) the day after the governing body of Wadena County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Section 1, relating to the RenVilla Nursing Home, is effective upon the latter of:

(1) the day after the governing body of the city of Renville and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, except that the certificate of approval must be filed before January 1, 2006; and

(2) the first day of the month next following certification to the governing body of the city of Renville by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized RenVilla Nursing Home employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement, or the actuary retained under Minnesota Statutes, section 356.214, whichever is applicable.

(c) The cost of the actuarial calculations must be borne by the city of Renville or the purchaser of the RenVilla Nursing Home.

(d) Section 1, relating to the St. Peter Community Healthcare Center, is effective upon the latter of:

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

(2) the first day of the month next following certification to the governing body of the city of St. Peter by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized St. Peter Community Healthcare Center employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement, or the actuary retained under Minnesota Statutes, section 356.214, whichever is applicable.

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

(f) If the required actions under paragraphs (b) and (c) occur, section 1 applies retroactively to the RenVilla Nursing Home as of the date of privatization.

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

(h) Sections 2 and 3 are effective on the day following final enactment.

Sec. 3. [EFFECTIVE DATE.]

(a) Section 1, relating to Bridges Medical Services, is effective upon the later of:

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

(2) the first day of the month next following certification to the governing body of the city of Ada by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized Bridges Medical Services employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained under Minnesota Statutes, section 356.214.

(b) Section 1, relating to the Hutchinson Area Health Care, is effective upon the later of:

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

(2) the first day of the month next following certification to the governing body of the city of Hutchinson by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized Hutchinson Area Health Care employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(c) Section 1, relating to the Northfield Hospital, is effective upon the later of:

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

(2) the first day of the month next following certification to the governing body of the city of Northfield by the executive director of the Public Employees Retirement Association that the



actuarial accrued liability of the special benefit coverage proposed for extension to the privatized Northfield Hospital employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(d) The cost of the actuarial calculations must be borne by the facility, the city in which the facility is located, or the purchaser of the facility.

(e) If the required actions in paragraphs (a), (b), or (c) and (d) occur, section 1 applies retroactively to the date of privatization.

(f) Section 2 is effective the day following final enactment.

#### ARTICLE 8

#### FIRST CLASS CITY TEACHER RETIREMENT FUND ASSOCIATIONS

Section 1. Minnesota Statutes 2004, section 354A.021, is amended by adding a subdivision to read:

Subd. 9. [UPDATED ARTICLES OF INCORPORATION AND BYLAWS; FILING.] (a) On or before July 1, 2006, and within six months of the date of the approval of any amendment to the articles of incorporation or bylaws, the chief administrative officer of each first class city teacher retirement fund association shall prepare and publish an updated compilation of the articles of incorporation and the bylaws of the association.

(b) The chief administrative officer of the first class city teacher retirement fund association must certify the accuracy and the completeness of the compilation.

(c) The compilation of the articles of incorporation and bylaws of a first class city teacher retirement fund association must contain an index.

(d) The compilation must be made available to association members and other interested parties. The association may charge a fee for a copy that reflects the price of printing or otherwise producing the copy. Two copies of the compilation must be filed, without charge, by each retirement fund association with the Legislation Commission on Pensions and Retirement, the Legislative Reference Library, the state auditor, the commissioner of education, the chancellor of the Minnesota State Colleges and Universities system, and the superintendent of the applicable school district.

(e) A first class city teacher retirement fund association may contract with the revisor of statutes for the preparation of the compilation.

(f) If a first class city teacher retirement fund association makes an updated copy of its articles of incorporation and bylaws available on its Web site, the retirement fund association is not obligated to file a hard copy of the documents under paragraph (d) for the applicable filing period.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective July 1, 2005.

#### ARTICLE 9

#### MINNESOTA STATE COLLEGES AND UNIVERSITIES INDIVIDUAL RETIREMENT ACCOUNT PLAN CHANGES

Section 1. Minnesota Statutes 2004, section 354B.25, subdivision 2, is amended to read:

Subd. 2. [INVESTMENT OPTIONS.] (a) The plan administrator shall arrange for the purchase of investment products.

(b) The investment products must be purchased with contributions under section 354B.23 or with money or assets otherwise provided by law by authority of the board.

(c) Various investment accounts offered through the Minnesota supplemental investment fund established under section 11A.17 and administered by the State Board of Investment is one of the may be included as investment products for the individual retirement account plan. Direct access must also be provided to lower expense and no-load mutual funds, as those terms are defined by the federal Securities and Exchange Commission, including stock funds, bond funds, and balanced funds. Other investment products or combination of investment products which may be included are:

- (1) savings accounts at federally insured financial institutions;
- (2) life insurance contracts, fixed and variable annuity contracts from companies that are subject to regulation by the commerce commissioner;
- (3) investment options from open-ended investment companies registered under the federal Investment Company Act of 1940, United States Code, title 15, sections 80a-1 to 80a-64;
- (4) investment options from a firm that is a registered investment advisor under the federal Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21; and
- (5) investment options of a bank as defined in United States Code, title 15, section 80b-2, subsection (a), paragraph 2, or a bank holding company as defined in the Bank Holding Company Act of 1956, United States Code, title 12, section 1841, subsection (a), paragraph (1).

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

#### ARTICLE 10

#### SUPPLEMENTAL RETIREMENT PLANS

Section 1. Minnesota Statutes 2004, section 356.24, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTION; EXCEPTIONS.] It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or to contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

- (1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;
- (2) to a plan that provides solely for group health, hospital, disability, or death benefits;
- (3) to the individual retirement account plan established by chapter 354B;
- (4) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;
- (5) for employees other than personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and covered under the Higher Education Supplemental Retirement Plan under chapter 354C, if the supplemental plan coverage is provided for in a personnel policy of the public employer or in the collective bargaining agreement between the public employer and the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee;
  - (i) to the state of Minnesota deferred compensation plan under section 352.96; or
  - (ii) in payment of the applicable portion of the contribution made to any investment eligible

under section 403(b) of the Internal Revenue Code, if the employing unit has complied with any applicable pension plan provisions of the Internal Revenue Code with respect to the tax-sheltered annuity program during the preceding calendar year;

(6) for personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and not covered by clause (5), to the supplemental retirement plan under chapter 354C, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,700 a year for each employee;

(7) to a supplemental plan or to a governmental trust to save for postretirement health care expenses qualified for tax-preferred treatment under the Internal Revenue Code, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit;

(8) to the laborer's national industrial pension fund or to a laborer's local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of ~~\$2,000~~ \$5,000 per year per employee;

(9) to the plumbers' and pipefitters' national pension fund or to a plumbers' and pipefitters' local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of ~~\$2,000~~ \$5,000 per year per employee;

(10) to the international union of operating engineers pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of ~~\$2,000~~ \$5,000 per year per employee; or

(11) to a supplemental plan organized and operated under the federal Internal Revenue Code, as amended, that is wholly and solely funded by the employee's accumulated sick leave, accumulated vacation leave, and accumulated severance pay at the date of retirement or the termination of active employment.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

#### ARTICLE 11

### VOLUNTEER FIREFIGHTER RELIEF

#### ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2004, section 69.051, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL REPORT AND AUDIT.] The board of each salaried firefighters' relief association, police relief association, and volunteer firefighters' relief association as defined in section 424A.001, subdivision 4, with assets of at least \$200,000 or liabilities of at least \$200,000 in the prior year or in any previous year, according to the ~~most recent~~ applicable actuarial valuation or financial report if no valuation is required, shall:

(1) prepare a financial report covering the special and general funds of the relief association for the preceding fiscal year on a form prescribed by the state auditor. The financial report shall must contain financial statements and disclosures which present the true financial condition of the relief association and the results of relief association operations in conformity with generally accepted accounting principles and in compliance with the regulatory, financing and funding provisions of this chapter and any other applicable laws. The financial report shall must be countersigned by the

municipal clerk or clerk-treasurer of the municipality in which the relief association is located if the relief association is a firefighters' relief association which is directly associated with a municipal fire department or is a police relief association, or countersigned by the secretary of the independent nonprofit firefighting corporation and by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the volunteer firefighter relief association is a subsidiary of an independent nonprofit firefighting corporation;

(2) file the financial report in its office for public inspection and present it to the city council after the close of the fiscal year. One copy of the financial report shall must be furnished to the state auditor after the close of the fiscal year; and

(3) submit to the state auditor audited financial statements which have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year. The state auditor may accept this report in lieu of the report required in clause (2).

Sec. 2. Minnesota Statutes 2004, section 69.051, subdivision 1a, is amended to read:

Subd. 1a. [FINANCIAL STATEMENT.] (a) The board of each volunteer firefighters' relief association, as defined in section 424A.001, subdivision 4, ~~with assets of less than \$200,000 and liabilities less than \$200,000, according to the most recent financial report, shall that is not required to file a financial report and audit under subdivision 1~~ must prepare a detailed statement of the financial affairs for the preceding fiscal year of the relief association's special and general funds in the style and form prescribed by the state auditor. The detailed statement must show the sources and amounts of all money received; all disbursements, accounts payable and accounts receivable; the amount of money remaining in the treasury; total assets including a listing of all investments; the accrued liabilities; and all items necessary to show accurately the revenues and expenditures and financial position of the relief association.

(b) The detailed financial statement required under paragraph (a) must be certified by an independent public accountant or auditor or by the auditor or accountant who regularly examines or audits the financial transactions of the municipality. In addition to certifying the financial condition of the special and general funds of the relief association, the accountant or auditor conducting the examination shall give an opinion as to the condition of the special and general funds of the relief association, and shall comment upon any exceptions to the report. The independent accountant or auditor ~~shall~~ must have at least five years of public accounting, auditing, or similar experience, and ~~shall~~ must not be an active, inactive, or retired member of the relief association or the fire or police department.

(c) The detailed statement required under paragraph (a) must be countersigned by the municipal clerk or clerk-treasurer of the municipality, or, where applicable, by the secretary of the independent nonprofit firefighting corporation and by the municipal clerk or clerk-treasurer of the largest municipality in population which contracts with the independent nonprofit firefighting corporation if the relief association is a subsidiary of an independent nonprofit firefighting corporation.

(d) The volunteer firefighters' relief association board must file the detailed statement required under paragraph (a) in the relief association office for public inspection and present it to the city council within 45 days after the close of the fiscal year, and must submit a copy of the detailed statement to the state auditor within 90 days of the close of the fiscal year.

Sec. 3. Minnesota Statutes 2004, section 69.771, is amended to read:

69.771 [VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION FINANCING GUIDELINES ACT; APPLICATION.]

Subdivision 1. [COVERED RELIEF ASSOCIATIONS.] The applicable provisions of sections 69.771 to 69.776 shall apply to any firefighters' relief association other than a relief association enumerated in section 69.77, subdivision 1a, which is organized under any laws of this state,

which is composed of volunteer firefighters or is composed partially of volunteer firefighters and partially of salaried firefighters with retirement coverage provided by the public employees police and fire fund and which, in either case, operates subject to the service pension minimum requirements for entitlement and maximums contained in section 424A.02, or subject to a special law modifying those requirements or maximums.

Subd. 2. [AUTHORIZED EMPLOYER SUPPORT FOR A RELIEF ASSOCIATION.] Notwithstanding any law to the contrary, a municipality may lawfully contribute public funds, including the transfer of any applicable fire state aid, or may levy property taxes for the support of a firefighters' relief association specified in subdivision 1, however organized, which provides retirement coverage or pays a service pension to retired firefighter or a retirement benefit to a disabled firefighter or a surviving dependent of either an active or retired firefighter for the operation and maintenance of the relief association only if the municipality and the relief association both comply with the applicable provisions of sections 69.771 to 69.776.

Subd. 3. [REMEDY FOR NONCOMPLIANCE; DETERMINATION.] Any (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 shall does not qualify initially to receive, or be and is not entitled subsequently to retain, fire state aid pursuant to 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, shall be 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 pursuant to 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 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, subdivision 7, 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.

Sec. 4. Minnesota Statutes 2004, section 69.772, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL REQUIREMENTS OF RELIEF ASSOCIATION; MINIMUM OBLIGATION OF MUNICIPALITY.] (a) During the month of July, the officers of the relief association shall determine the overall funding balance of the special fund for the current calendar year, the financial requirements of the special fund for the following calendar year and the minimum obligation of the municipality with respect to the special fund for the following calendar year in accordance with the requirements of this subdivision.

~~(b)~~ (b) The overall funding balance of the special fund for the current calendar year ~~shall~~ must be determined in the following manner:

~~(a)~~ (1) The total accrued liability of the special fund for all active and deferred members of the relief association as of December 31 of the current year ~~shall~~ must be calculated ~~pursuant to~~ under subdivisions 2 and 2a, if applicable.

~~(b)~~ (2) The total present assets of the special fund projected to December 31 of the current year, including receipts by and disbursements from the special fund anticipated to occur on or before December 31 ~~shall~~, must be calculated. To the extent possible, for those assets for which a market value is readily ascertainable, the current market value as of the date of the calculation for those assets ~~shall~~ must be utilized in making this calculation. For any asset for which no market value is readily ascertainable, the cost value or the book value, whichever is applicable, ~~shall~~ must be utilized in making this calculation.

~~(e)~~ (3) The amount of the total present assets of the special fund calculated ~~pursuant to~~ under clause ~~(b)~~ (2) ~~shall~~ must be subtracted from the amount of the total accrued liability of the special

fund calculated pursuant to under clause (a) (1). If the amount of total present assets exceeds the amount of the total accrued liability, then the special fund shall be 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 special fund shall be 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 shall be is considered to be fully funded.

(2) (c) The financial requirements of the special fund for the following calendar year shall must be determined in the following manner:

(a) (1) The total accrued liability of the special fund for all active and deferred members of the relief association as of December 31 of the calendar year next following the current calendar year shall must be calculated pursuant to under subdivisions 2 and 2a, if applicable.

(b) (2) The increase in the total accrued liability of the special fund for the following calendar year over the total accrued liability of the special fund for the current year shall must be calculated.

(c) (3) The amount of anticipated future administrative expenses of the special fund shall must be calculated by multiplying the dollar amount of the administrative expenses of the special fund for the most recent prior calendar year by the factor of 1.035.

(d) (4) If the special fund is fully funded, the financial ~~requirement~~ requirements of the special fund for the following calendar year shall be are the figure which represents the increase in the total accrued liability of the special fund as amounts calculated pursuant to subclause (b) under clauses (2) and (3).

(e) (5) If the special fund has a deficit from full funding, the financial requirements of the special fund for the following calendar year shall be are the financial requirements of the special fund calculated as though the special fund were fully funded pursuant to subclause (d) under clause (4) plus an amount equal to one-tenth of the original amount of the deficit from full funding of the special fund as determined pursuant to this section for the calendar year 1971 until that deficit from full funding is fully retired, and plus an amount equal to one-tenth of the increase in the deficit from full funding of the special fund under clause (2) resulting either from an increase in the amount of the service pension accruing after December 31, 1971 occurring in the last ten years or from a net annual investment loss occurring during the last ten years until each increase in the deficit from full funding is fully retired. The annual amortization contribution under this clause may not exceed the amount of the deficit from full funding.

(f) (6) If the special fund has a surplus over full funding, the financial requirements of the special fund for the following calendar year shall be are the financial requirements of the special fund calculated as though the special fund were fully funded pursuant to subclause (d) under clause (4) reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the special fund.

(3) (d) The minimum obligation of the municipality with respect to the special fund shall be is the financial requirements of the special fund reduced by the amount of any fire state aid payable pursuant to under sections 69.011 to 69.051 reasonably anticipated to be received by the municipality for transmittal to the special fund during the following calendar year, an amount of interest on the assets of the special fund projected to the beginning of the following calendar year calculated at the rate of five percent per annum, and the amount of any anticipated contributions to the special fund required by the relief association bylaws from the active members of the relief association reasonably anticipated to be received during the following calendar year. 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.

Sec. 5. Minnesota Statutes 2004, 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 pursuant to 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.

(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 pursuant to under this section shall 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.

Sec. 6. Minnesota Statutes 2004, section 69.773, subdivision 4, is amended to read:

Subd. 4. [FINANCIAL REQUIREMENTS OF SPECIAL FUND.] ~~Prior to~~ (a) On or before August 1 of each year, the officers of the relief association shall determine the financial requirements of the special fund of the relief association in accordance with the requirements of this subdivision.

(b) ~~The financial requirements of the relief association shall~~ must be based on the most recent actuarial valuation of the special fund prepared in accordance with subdivision 2. If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation, the financial requirements shall ~~be~~ must be determined by adding the figures calculated pursuant to under paragraph (d), clauses (a) (1), (b) (2), and (c) (3). If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation, the financial requirements shall ~~be~~ must be an amount equal to the figure calculated pursuant to under paragraph (d), clauses (a) (1) and (b) (2), reduced by an amount equal to one-tenth of the amount of any assets in excess of the actuarial accrued liability of the relief association.

(c) ~~The determination of whether or not the relief association has an unfunded actuarial accrued liability shall~~ must be based on the current market value of assets for which a market value is readily ascertainable and the cost or book value, whichever is applicable, for assets for which no market value is readily ascertainable.

(a) (d) The components of the financial requirements of the relief association are the following:

(1) ~~The normal level cost requirement for the following year, expressed as a dollar amount, shall be~~ is the figure for the normal level cost of the relief association as reported in the actuarial valuation.

(b) (2) ~~The amount of anticipated future administrative expenses of the special fund shall~~ must be calculated by multiplying the dollar amount of the administrative expenses of the special fund for the most recent prior calendar year by the factor of 1.035.



(e) (3) The amortization contribution requirement to retire the current unfunded actuarial accrued liability by the established date for full funding shall be the figure for the amortization contribution as reported in the actuarial valuation. If there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the special fund, a change in the bylaws of the relief association governing the service pensions, retirement benefits, or both, payable from the special fund, or a change in the actuarial cost method used to value all or a portion of the special fund which change or changes, which by themselves, without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability of the special fund since December 31, 1970, the established date for full funding shall be the December 31, 1990 occurring ten years later. If there has been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the special fund, a change in the bylaws of the relief association governing the service pensions, retirement benefits, or both payable from the special fund or a change in the actuarial cost method used to value all or a portion of the special fund and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability of the special fund since December 31, 1970, but prior to January 1, 1979 within the past 20 years, the established date for full funding shall be December 31, 1998, and if there has been a change since December 31, 1978, the established date for full funding shall must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the special fund attributable to experience losses that have occurred since the most recent prior actuarial valuation must be determined and the level annual dollar contribution needed to amortize the experience loss over a period of ten years ending on the December 31 occurring ten years later must be calculated;

(ii) the unfunded actuarial accrued liability of the special fund shall must be determined in accordance with the provisions governing service pensions, retirement benefits, and actuarial assumptions in effect before an applicable change;

~~(iii)~~ (iii) the level annual dollar contribution needed to amortize this unfunded actuarial accrued liability amount by the date for full funding in effect prior to before the change shall must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect before any applicable change;

~~(iii)~~ (iv) the unfunded actuarial accrued liability of the special fund shall must be determined in accordance with any new provisions governing service pensions, retirement benefits, and actuarial assumptions and the remaining provisions governing service pensions, retirement benefits, and actuarial assumptions in effect before an applicable change;

~~(iv)~~ (v) the level annual dollar contribution needed to amortize the difference between the unfunded actuarial accrued liability amount calculated pursuant to subclause (i) under item (ii) and the unfunded actuarial accrued liability amount calculated pursuant to subclause (iii) under item (iv) over a period of 20 years starting December 31 of the year in which the change is effective shall must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect after any applicable change;

~~(v)~~ (vi) the annual amortization contribution calculated pursuant to subclause (iv) shall under item (v) must be added to the annual amortization contribution calculated pursuant to subclause (ii) under items (i) and (iii);

~~(vi)~~ (vii) the period in which the unfunded actuarial accrued liability amount determined in subclause (iii) item (iv) will be amortized by the total annual amortization contribution computed pursuant to subclause (v) shall under item (vi) must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect after any applicable change, rounded to the nearest integral number of years, but which shall must not exceed a period of 20 years from the end of the year in which the determination of the date for full funding using this procedure is made and which shall must not be less than the period of years beginning in the year in which the determination of the date for full funding using this procedure is made and ending by the date for full funding in effect before the change;

~~(vii)~~ (viii) the period determined ~~pursuant to subclause (vi) shall~~ under item (vii) must be added to the date as of which the actuarial valuation was prepared and the resulting date shall be is the new date for full funding.

Sec. 7. Minnesota Statutes 2004, section 69.773, subdivision 5, is amended to read:

Subd. 5. [MINIMUM MUNICIPAL OBLIGATION.] (a) The officers of the relief association shall determine the minimum obligation of the municipality with respect to the special fund of the relief association for the following calendar year ~~prior to~~ on or before August 1 of each year in accordance with the requirements of this subdivision.

(b) The minimum obligation of the municipality with respect to the special fund ~~shall be~~ is an amount equal to the financial requirements of the special fund of the relief association determined ~~pursuant to~~ under subdivision 4, reduced by the estimated amount of any fire state aid payable ~~pursuant to~~ under sections 69.011 to 69.051 reasonably anticipated to be received by the municipality for transmittal to the special fund of the relief association during the following year and the amount of any anticipated contributions to the special fund required by the relief association bylaws from the active members of the relief association reasonably anticipated to be received during the following calendar year. 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.

(c) 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 ~~pursuant to~~ under subdivision 4 and this subdivision to the governing body of the municipality by 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.

(d) 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. 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 or charter 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 ~~pursuant to~~ under this section ~~shall~~ 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.

(e) If the municipality does not include the full amount of the minimum municipal obligation 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 minimum municipal obligation on the taxable property of the municipality.

(f) 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 from the relief association or from the city a copy of the certifications under this subdivision. 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.

Sec. 8. Minnesota Statutes 2004, section 69.775, is amended to read:

69.775 [INVESTMENTS.]

(a) The special fund assets of ~~the a relief associations~~ association governed by sections 69.771 to ~~69.776~~ 69.776 must be invested in securities that are authorized investments under section 356A.06, subdivision 6 or 7.

(b) Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the special fund, not including any money market mutual funds, may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the

portfolio investments of the investment companies comply with the type of securities authorized for investment under section 356A.06, subdivision 7.

(c) Securities held by the associations before June 2, 1989, that do not meet the requirements of this section may be retained after that date if they were proper investments for the association on that date.

(d) The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify special fund assets for investment by the State Board of Investment under section 11A.17.

(e) The governing board of the association may certify general fund assets of the relief association 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.

(f) The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board under section 11A.04, clause (11).

Sec. 9. Minnesota Statutes 2004, section 356A.06, subdivision 7, is amended to read:

Subd. 7. [EXPANDED LIST OF AUTHORIZED INVESTMENT SECURITIES.] (a) [AUTHORITY.] Except to the extent otherwise authorized by law or bylaws, a covered pension plan not described by subdivision 6, paragraph (a), may invest its assets only in accordance with this subdivision.

(b) [SECURITIES GENERALLY.] The covered pension plan has the authority to purchase, sell, lend, or exchange the securities specified in paragraphs (c) to ~~(g)~~ (h), including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned as units in commingled trusts that own the securities described in paragraphs (c) to ~~(g)~~ (h).

(c) [GOVERNMENT OBLIGATIONS.] The covered pension plan may invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness provided the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which funds may be invested under this paragraph include guaranteed or insured issues of (1) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (2) Canada and its provinces, provided the principal and interest is payable in United States dollars; (3) the states and their municipalities, political subdivisions, agencies, or instrumentalities; (4) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars.

(d) [CORPORATE OBLIGATIONS.] The covered pension plan may invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof if they conform to the following provisions:

(1) the principal and interest of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any province thereof must be payable in United States dollars; and

(2) obligations must be rated among the top four quality categories by a nationally recognized rating agency.

(e) [OTHER OBLIGATIONS.] (1) The covered pension plan may invest funds in bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage participation

certificates and pools, asset backed securities, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:

(i) bankers acceptances and deposit notes of United States banks are limited to those issued by banks rated in the highest four quality categories by a nationally recognized rating agency;

(ii) certificates of deposit are limited to those issued by (A) United States banks and savings institutions that are rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies; or (B) credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration;

(iii) commercial paper is limited to those issued by United States corporations or their Canadian subsidiaries and rated in the highest two quality categories by a nationally recognized rating agency;

(iv) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3;

(v) collateral for repurchase agreements and reverse repurchase agreements is limited to letters of credit and securities authorized in this section;

(vi) guaranteed investment contracts are limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this subdivision;

(vii) savings accounts are limited to those fully insured by federal agencies; and

(viii) asset backed securities must be rated in the top four quality categories by a nationally recognized rating agency.

(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the covered pension plan under clause (1), item (ii).

(3) In addition to investments authorized by clause (1), item (iv), the covered pension plan may purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The covered pension plan may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The covered pension plan may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the covered pension plan comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The covered pension plan may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

(f) [CORPORATE STOCKS.] The covered pension plan may invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or the states thereof, any corporation organized under the laws of the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange an exchange regulated by an agency of the United States or of the Canadian national government, if they conform to the following provisions:

(1) the aggregate value of corporate stock investments, as adjusted for realized profits and losses, must not exceed 85 percent of the market or book value, whichever is less, of a fund, less the aggregate value of investments according to ~~subdivision 6~~ paragraph (h);

(2) investments must not exceed five percent of the total outstanding shares of any one corporation.

(g) [EXCHANGE TRADED FUNDS.] The covered pension plan may invest funds in exchange traded funds, subject to the maximums, the requirements, and the limitations set forth in paragraph (d), (e), (f), or (h), whichever applies.

(h) [OTHER INVESTMENTS.] (1) In addition to the investments authorized in paragraphs (b) to ~~(f)~~ (g), and subject to the provisions in clause (2), the covered pension plan may invest funds in:

(i) venture capital investment businesses through participation in limited partnerships and corporations;

(ii) real estate ownership interests or loans secured by mortgages or deeds of trust through investment in limited partnerships, bank sponsored collective funds, trusts, and insurance company commingled accounts, including separate accounts;

(iii) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940;

(iv) resource investments through limited partnerships, private placements, and corporations; and

(v) international securities.

(2) The investments authorized in clause (1) must conform to the following provisions:

(i) the aggregate value of all investments made according to clause (1) may not exceed 35 percent of the market value of the fund for which the covered pension plan is investing;

(ii) there must be at least four unrelated owners of the investment other than the state board for investments made under clause (1), item (i), (ii), (iii), or (iv);

(iii) covered pension plan participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), (iii), or (iv); and

(iv) covered pension plan participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The covered pension plan may not engage in any activity as a limited partner which creates general liability.

Sec. 10. Minnesota Statutes 2004, 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 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 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 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 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<br>Available Financing per<br>Firefighter | Maximum Service Pension<br>Amount Payable per Month<br>for Each Year of Service |
|---|---|
| \$...   | \$ .25  |
| 42 <u>41</u>  | .50   |
| 84 <u>81</u>  | 1.00  |
| 126 <u>122</u>  | 1.50  |
| 168 <u>162</u>  | 2.00  |
| 209 <u>203</u>  | 2.50  |
| 252 <u>243</u>  | 3.00  |
| 294 <u>284</u>  | 3.50  |
| 335 <u>324</u>  | 4.00  |
| 378 <u>365</u>  | 4.50  |
| 420 <u>405</u>  | 5.00  |
| 503 <u>486</u>  | 6.00  |
| 587 <u>567</u>  | 7.00  |
| 672 <u>648</u>  | 8.00  |
| 755 <u>729</u>  | 9.00  |
| 839 <u>810</u>  | 10.00   |
| 923 <u>891</u>  | 11.00   |
| 1007 <u>972</u>   | 12.00   |
| 1090 <u>1053</u>  | 13.00   |
| 1175 <u>1134</u>  | 14.00   |
| 1259 <u>1215</u>  | 15.00   |
| 1342 <u>1296</u>  | 16.00   |
| 1427 <u>1377</u>  | 17.00   |
| 1510 <u>1458</u>  | 18.00   |
| 1594 <u>1539</u>  | 19.00   |
| 1677 <u>1620</u>  | 20.00   |
| 1762 <u>1701</u>  | 21.00   |
| 1845 <u>1782</u>  | 22.00   |
| 1888 <u>1823</u>  | 22.50   |
| 1929 <u>1863</u>  | 23.00   |
| 2014 <u>1944</u>  | 24.00   |
| 2098 <u>2025</u>  | 25.00   |
| 2183 <u>2106</u>  | 26.00   |
| 2267 <u>2187</u>  | 27.00   |
| 2351 <u>2268</u>  | 28.00   |
| 2436 <u>2349</u>  | 29.00   |
| 2520 <u>2430</u>  | 30.00   |
| 2604 <u>2511</u>  | 31.00   |
| 2689 <u>2592</u>  | 32.00   |
| 2773 <u>2673</u>  | 33.00   |
| 2857 <u>2754</u>  | 34.00   |
| 2942 <u>2834</u>  | 35.00   |
| 3026 <u>2916</u>  | 36.00   |
| 3110 <u>2997</u>  | 37.00   |

|      |      |       |
|------|------|-------|
| 3194 | 3078 | 38.00 |
| 3278 | 3159 | 39.00 |
| 3362 | 3240 | 40.00 |
| 3446 | 3321 | 41.00 |
| 3530 | 3402 | 42.00 |
| 3614 | 3483 | 43.00 |
| 3698 | 3564 | 44.00 |
| 3782 | 3645 | 45.00 |
| 3866 | 3726 | 46.00 |
| 3950 | 3807 | 47.00 |
| 4034 | 3888 | 48.00 |
| 4118 | 3969 | 49.00 |
| 4202 | 4050 | 50.00 |
| 4286 | 4131 | 51.00 |
| 4370 | 4212 | 52.00 |

Effective beginning December 31, 2003:

|      |      |       |
|------|------|-------|
| 4454 | 4293 | 53.00 |
| 4538 | 4374 | 54.00 |
| 4622 | 4455 | 55.00 |
| 4706 | 4536 | 56.00 |

(d) For a 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<br>of Available Financing<br>per Firefighter | Maximum Lump Sum Service<br>Pension Amount Payable<br>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 |

Effective beginning December 31, 2003:

|      |      |
|------|------|
| 3831 | 7100 |
| 3885 | 7200 |
| 3939 | 7300 |
| 3993 | 7400 |
| 4047 | 7500 |

(e) For a 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 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 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.

Sec. 11. Minnesota Statutes 2004, section 424A.02, subdivision 4, is amended to read:

Subd. 4. [DEFINED CONTRIBUTION LUMP SUM SERVICE PENSIONS.] (a) If the bylaws governing the relief association so provide exclusively, the relief association may pay a defined contribution lump sum service pension in lieu of any defined benefit service pension governed by subdivision 2.

(b) An individual account for each firefighter who is a member of the relief association shall must be established. To each individual active member account shall must be credited a right to an equal share of: ~~(a)~~ (1) any amounts of fire state aid received by the relief association; ~~(b)~~ (2) 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 ~~(c)~~ (3) any amounts equal to the share of the assets of the special fund to the credit of: ~~(1)~~ (i) any former member who terminated active service with the fire department to which the relief association is associated prior

~~to before~~ meeting the minimum service requirement provided for in subdivision 1 and has not returned to active service with the fire department for a period no shorter than five years; or ~~(2)~~ (ii) any retired member who retired ~~prior to~~ before obtaining a full nonforfeitable interest in the amounts credited to the individual member account pursuant to under subdivision 2 and any applicable provision of the bylaws of the relief association. In addition, any ~~interest or investment income earned return~~ on the assets of the special fund shall ~~must~~ be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account through the date on which the investment return is recognized by and credited to the special fund.

~~(c)~~ At the time of retirement pursuant to under subdivision 1 and any applicable provision of the bylaws of the relief association, a retiring member ~~shall be~~ 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 pursuant to under subdivision 2 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.

Sec. 12. Minnesota Statutes 2004, section 424A.02, subdivision 7, is amended to read:

Subd. 7. [DEFERRED SERVICE PENSIONS.] (a) A member of a relief association ~~to which this section applies~~ is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

(b) The deferred service pension ~~starts~~ 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 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;

(2) at ~~the an~~ an interest rate of up to five percent, compounded annually as set by the board of directors and approved as provided in subdivision 10; or

(3) at a rate equal to the actual time weighted total rate of return investment performance of the special fund as reported by the Office of the State Auditor under section 356.219, up to five percent, compounded annually, and applied consistently for all deferred service pensioners.

~~(d)~~ A relief association may not use the method provided for in ~~paragraph (c)~~, clause (3), until it has modified its bylaws to be consistent with that clause.

(d) Interest under paragraph (c), clause (2) or (3), is payable from the first day of the month next following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees or from the first day of the month next following the date on which the member separated from active fire department service and relief association membership, whichever is later, to the last day of the month immediately before the month in which the deferred member becomes eligible to begin receipt of the service pension and applies for the deferred service pension.

(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.

(f) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

(g) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 13. [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 if the relief association is a defined benefit 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 financial allocation 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 financial allocation 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 financial allocation 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.

Sec. 14. Minnesota Statutes 2004, section 424A.04, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] (a) Every A relief association that is directly associated with a municipal fire department shall must be managed by a board of trustees consisting of nine members. Six trustees shall must be elected from the membership of the relief association and three trustees shall 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 ex-officio municipal trustees shall be the mayor, the clerk, clerk-treasurer or finance director, 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) ~~Every~~ A relief association that is a subsidiary of an independent nonprofit firefighting corporation ~~shall~~ must be managed by a board of trustees consisting of ~~ten~~ nine members. Six trustees ~~shall~~ must be elected from the membership of the relief association, ~~three~~ two trustees ~~shall~~ 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 be the fire chief servng 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 ~~three ex-officio~~ two municipal trustees who are the elected officials ~~shall~~ must be elected or appointed municipal officials, selected as follows:

(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the ~~ex-officio municipal~~ trustees ~~shall~~ must be ~~three~~ two officials of the contracting municipality who are designated annually by the governing body of the municipality;

(2) if two municipalities contract with the independent nonprofit firefighting corporation, the ~~ex-officio~~ trustees ~~shall~~ be two elected officials of the largest municipality in population and one elected official of the next largest municipality in population who are designated by the governing bodies of the applicable municipalities; or

(3) (2) if ~~three~~ two or more municipalities contract with the independent nonprofit corporation, the ~~ex-officio municipal~~ trustees ~~shall~~ must be one elected official ~~of~~ from each of the ~~three~~ 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 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 designated by the township board.

(d) If a relief association lacks the ~~ex-officio municipal~~ board members provided for in paragraph (a), (b), or (b) (c) because the fire department is not located in or associated with an organized municipality, joint powers entity, or township, the ~~ex-officio municipal~~ board members must be appointed from the fire department service area by the board of commissioners of the applicable county.

(e) The term of these appointed ~~ex-officio municipal~~ board members is ~~three years~~ one year or until the person's successor is qualified, whichever is later.

(d) An ~~ex-officio~~ (f) A municipal trustee under paragraph (a), (b), or (c) shall have, 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.

(e) (g) A board shall must have at least three officers, ~~which shall be~~ who are a president, a secretary and a treasurer. These officers shall must be elected from among the elected trustees by either the full board of trustees or by the membership, as specified in the bylaws, ~~and~~. In no event shall 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 shall must be specified in the bylaws of the relief association, but shall 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 shall initially and shall thereafter continue to~~ must be staggered on as equal a basis as is practicable.

Sec. 15. Minnesota Statutes 2004, section 424B.10, subdivision 1, is amended to read:

Subdivision 1. [BENEFITS.] (a) Notwithstanding any provision of section 424A.02, subdivision 3, to the contrary, the service pension of the subsequent 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 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.

(b) 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 424A.02.

Sec. 16. [APPROPRIATION.]

\$40,000 is appropriated from the general fund in fiscal year 2006 to the commissioner of public safety to hire a consultant to assist the statewide Volunteer Firefighter Retirement Plan Study Task Force.

Sec. 17. [EFFECTIVE DATE.]

(a) Sections 1 to 12, 14, 15, and 16 are effective July 1, 2005.

(b) Section 13 is effective July 1, 2005, and applies to breaks in service that end on or after that date.

ARTICLE 12  
VARIOUS CORRECTIONS  
AND CLARIFICATIONS

Section 1. Minnesota Statutes 2004, section 3A.13, is amended to read:

3A.13 [EXEMPTION FROM PROCESS AND TAXATION; HEALTH PREMIUM DEDUCTION.]

(a) The provisions of section ~~352.15~~ shall 356.401 apply to the legislators retirement plan, ~~chapter 3A.~~

(b) The executive director of the Minnesota State Retirement System must, at the request of a retired legislator who is enrolled in a health insurance plan covering state employees, deduct the person's health insurance premiums from the person's annuity and transfer the amount of the premium to a health insurance carrier covering state employees.

Sec. 2. Minnesota Statutes 2004, section 69.011, subdivision 2b, is amended to read:

Subd. 2b. [DEPARTMENTS OF NATURAL RESOURCES AND PUBLIC SAFETY.] (a) ~~On or before July 1, 1997, the commissioner of natural resources shall certify one-half of the number of peace officers as defined in subdivision 1, clause (g), employed by the Enforcement Division during calendar year 1996 and the commissioner of public safety shall certify one-half of the number of peace officers as defined in subdivision 1, clause (g), employed by the Bureau of Criminal Apprehension, the Gambling Enforcement Division, and the State Patrol Division during calendar year 1996.~~

~~(b) On or before March 15, 1998, the commissioner of natural resources shall certify seven-tenths of the number of peace officers as defined in subdivision 1, clause (g), employed by the Enforcement Division and the commissioner of public safety shall certify seven-tenths of the number of peace officers as defined in subdivision 1, clause (g), employed by the Bureau of Criminal Apprehension, the Gambling Enforcement Division, and the State Patrol Division.~~

~~(c) On or before March 15, 1999, and annually on or before each March 15 thereafter, the~~

commissioner of natural resources shall certify the number of peace officers as defined in subdivision 1, clause (g), employed by the Enforcement Division and the commissioner of public safety shall certify the number of peace officers as defined in subdivision 1, clause (g), employed by the Bureau of Criminal Apprehension, the Gambling Enforcement Division, and the State Patrol Division.

(d) (b) The certification must be on a form prescribed by the commissioner. Peace officers certified under this paragraph must be included in the total certifications under subdivision 2.

Sec. 3. Minnesota Statutes 2004, section 69.021, subdivision 5, is amended to read:

Subd. 5. [CALCULATION OF STATE AID.] (a) The amount of fire state aid available for apportionment, before the addition of the minimum fire state aid allocation amount under subdivision 7, is equal to 107 percent of the amount of premium taxes paid to the state upon the fire, lightning, sprinkler leakage, and extended coverage premiums reported to the commissioner by insurers on the Minnesota Firetown Premium Report. This amount shall ~~must~~ be reduced by the amount required to pay the state auditor's costs and expenses of the audits or exams of the firefighters relief associations.

The total amount for apportionment in respect to fire state aid must not be less than two percent of the premiums reported to the commissioner by insurers on the Minnesota Firetown Premium Report after subtracting the following amounts:

(1) the amount required to pay the state auditor's costs and expenses of the audits or exams of the firefighters relief associations; and

(2) one percent of the premiums reported by town and farmers' mutual insurance companies and mutual property and casualty companies with total assets of \$5,000,000 or less.

(b) The total amount for apportionment as police state aid is equal to 104 percent of the amount of premium taxes paid to the state on the premiums reported to the commissioner by insurers on the Minnesota Aid to Police Premium Report, reduced by the amount required to pay the costs and expenses of the state auditor for audits or exams of police relief associations. The total amount for apportionment in respect to the police state aid program must not be less than two percent of the amount of premiums reported to the commissioner by insurers on the Minnesota Aid to Police Premium Report after subtracting the amount required to pay the state auditor's cost and expenses of the audits or exams of the police relief associations.

(c) The commissioner shall calculate the percentage of increase or decrease reflected in the apportionment over or under the previous year's available state aid using the same premiums as a basis for comparison.

(d) ~~The amount for apportionment in respect to peace officer state aid under paragraph (b) must be further reduced by \$1,779,000 in fiscal year 1999, \$2,077,000 in fiscal year 2000, and \$2,404,000 in fiscal year 2001. These reductions in this paragraph cancel to the general fund.~~

(e) In addition to the amount for apportionment of police state aid under paragraph (b), each year \$100,000 shall must be apportioned for police state aid. An amount sufficient to pay this increase is annually appropriated from the general fund.

Sec. 4. Minnesota Statutes 2004, section 69.021, subdivision 11, is amended to read:

Subd. 11. [EXCESS POLICE STATE-AID HOLDING ACCOUNT.] (a) The excess police state-aid holding account is established in the general fund. The excess police state-aid holding account must be administered by the commissioner.

(b) Excess police state aid determined according to subdivision 10, must be deposited in the excess police state-aid holding account.

(c) From the balance in the excess police state-aid holding account, \$900,000 is appropriated to and must be transferred annually to the ambulance service personnel longevity award and incentive suspense account established by section 144E.42, subdivision 2.

(d) If a police officer stress reduction program is created by law and money is appropriated for that program, an amount equal to that appropriation must be transferred to the administrator of that program from the balance in the excess police state-aid holding account.

(e) On October 1, 1997, and annually on each subsequent October 1, one-half of the balance of the excess police state-aid holding account remaining after the deductions under paragraphs (c) and (d) is appropriated for additional amortization aid under section 423A.02, subdivision 1b.

(f) Annually, the remaining balance in the excess police state-aid holding account, after the deductions under paragraphs (c), (d), and (e), cancels to the general fund.

Sec. 5. Minnesota Statutes 2004, section 69.33, is amended to read:

69.33 [NAMES OF ASSOCIATIONS REPORTED TO INSURANCE COMPANIES.]

The commissioner shall enclose in the annual statement blank that is sent to all fire insurance companies doing business in this state a blank form containing the names of all firefighters' relief associations in all cities of the first class and the names of the cities and require these companies, at the time of making their annual statements to the commissioner, to state on these blanks the amount of premiums received by them upon properties insured within the corporate limits of the cities named thereon during the year ending December 31st last past. Thereafter, before July first each year, the commissioner shall certify to the commissioner of finance the information thus obtained, together with the amount of the tax for the benefit of the relief association pension plans covering firefighters in cities of the first class paid in such year by these companies upon these insurance premiums.

Sec. 6. Minnesota Statutes 2004, section 69.773, subdivision 4, is amended to read:

Subd. 4. [FINANCIAL REQUIREMENTS OF SPECIAL FUND.] Prior to Before August 1 of each year, the officers of the relief association shall determine the financial requirements of the special fund of the relief association in accordance with the requirements of this subdivision. The financial requirements of the relief association shall must be based on the most recent actuarial valuation of the special fund prepared in accordance with subdivision 2. If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation, the financial requirements shall must be determined by adding the figures calculated pursuant to under clauses (a), (b), and (c). If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation, the financial requirements shall must be an amount equal to the figure calculated pursuant to under clauses (a) and (b), reduced by an amount equal to one-tenth of the amount of any assets in excess of the actuarial accrued liability of the relief association. The determination of whether or not the relief association has an unfunded actuarial accrued liability shall must be based on the current market value of assets for which a market value is readily ascertainable and the cost or book value, whichever is applicable, for assets for which no market value is readily ascertainable.

(a) The normal level cost requirement for the following year, expressed as a dollar amount, shall be is the figure for the normal level cost of the relief association as reported in the actuarial valuation.

(b) The amount of anticipated future administrative expenses of the special fund shall must be calculated by multiplying the dollar amount of the administrative expenses of the special fund for the most recent year by the factor of 1.035.

(c) The amortization contribution requirement to retire the current unfunded actuarial accrued liability by the established date for full funding shall be is the figure for the amortization contribution as reported in the actuarial valuation. If there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the special fund, a change in the bylaws of the relief association governing the service pensions, retirement benefits, or both payable from the special fund or a change in the actuarial cost method used to value all or a portion of the special fund which change or changes, which by themselves without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued

liability of the special fund since December 31, 1970, the established date for full funding shall be December 31, 1990. If there has been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the special fund, a change in the bylaws of the relief association governing the service pensions, retirement benefits, or both payable from the special fund or a change in the actuarial cost method used to value all or a portion of the special fund and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability of the special fund since December 31, 1970, but prior to January 1, 1979, the established date for full funding shall be December 31, 1998, and if there has been a change since December 31, 1978, the established date for full funding shall must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the special fund shall must be determined in accordance with the provisions governing service pensions, retirement benefits, and actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution needed to amortize this unfunded actuarial accrued liability amount by the date for full funding in effect ~~prior to~~ before the change shall must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect before any applicable change;

(iii) the unfunded actuarial accrued liability of the special fund shall must be determined in accordance with any new provisions governing service pensions, retirement benefits, and actuarial assumptions and the remaining provisions governing service pensions, retirement benefits, and actuarial assumptions in effect before an applicable change;

(iv) the level annual dollar contribution needed to amortize the difference between the unfunded actuarial accrued liability amount calculated ~~pursuant to~~ under subclause (i) and the unfunded actuarial accrued liability amount calculated ~~pursuant to~~ under subclause (iii) over a period of 20 years starting December 31 of the year in which the change is effective shall must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect after any applicable change;

(v) the annual amortization contribution calculated ~~pursuant to~~ under subclause (iv) shall must be added to the annual amortization contribution calculated ~~pursuant to~~ under subclause (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in subclause (iii) will be amortized by the total annual amortization contribution computed ~~pursuant to~~ under subclause (v) shall must be calculated using the interest assumption specified in section 356.215, subdivision 8, in effect after any applicable change, rounded to the nearest integral number of years, but which shall does not exceed a period of 20 years from the end of the year in which the determination of the date for full funding using this procedure is made and which shall is not be less than the period of years beginning in the year in which the determination of the date for full funding using this procedure is made and ending by the date for full funding in effect before the change;

(vii) the period determined ~~pursuant to~~ under subclause (vi) shall must be added to the date as of which the actuarial valuation was prepared and the resulting date shall be is the new date for full funding.

Sec. 7. Minnesota Statutes 2004, section 352.01, subdivision 4, is amended to read:

Subd. 4. [ACCUMULATED CONTRIBUTIONS.] "Accumulated contributions" means the total, exclusive of interest, of (1) the sums deducted from the salary of an employee, (2) the amount of payments, including assessments, paid by the employee in lieu of salary deductions and all other payments made under Laws 1929, chapter 191, as amended, this chapter and credited to the employee's individual account in the retirement fund.

Sec. 8. Minnesota Statutes 2004, section 352.01, subdivision 5, is amended to read:

Subd. 5. [RETIREMENT FUND.] (a) "Retirement fund" means the general state employees retirement fund created by section 352.04, subdivision 1, with respect to the general state



employees retirement plan or the correctional state employees retirement fund created by section 352.911, subdivision 1, with respect to the correctional state employees retirement plan.

(b) "The retirement fund" includes the aggregate of accumulated contributions of employees covered by the applicable plan, and all other funds paid into the state treasury or received by the director under ~~Laws 1929, chapter 191, as amended this chapter,~~ together with all income and profits from the money and interest on it, including contributions on the part of the federal government, the state, and state departments.

Sec. 9. Minnesota Statutes 2004, section 352.01, subdivision 21, is amended to read:

Subd. 21. [ACCRUED ANNUITIES.] (a) In this chapter and chapters 3A, 352B, 352C, and 490, "accrued annuity" means an annuity that had become payable to a retired employee in the lifetime of the employee.

(b) An annuity or benefit authorized as provided in this chapter and chapters 3A, 352B, 352C, and 490 becomes payable on the first day of each calendar month for that calendar month and ~~is to~~ must be paid on the first day of each calendar month ~~beginning with benefits payable on and after December 1, 1977.~~

(c) Notwithstanding any provision to the contrary in this chapter and chapters 3A, 352B, 352C, and 490, benefit payment authorized as "payable for life" is payable for the entire month in which death occurs, and the benefit payment for the month of death is payable to the surviving spouse or other beneficiary only if the annuitant dies before negotiating the benefit check.

Sec. 10. Minnesota Statutes 2004, section 352.01, subdivision 23, is amended to read:

Subd. 23. [COVERAGE OR COVERED BY THE SYSTEM.] "Coverage" or "covered by the system" means that a state ~~employees~~ employee who ~~serve~~ serves the state of Minnesota and ~~make~~ makes the required employee contributions to the retirement fund ~~will is~~, by reason of these contributions ~~become~~, entitled to either (1) a retirement annuity, or (2) a disability benefit, or (3) a refund of accumulated contributions, as provided in this chapter.

Sec. 11. Minnesota Statutes 2004, section 352.021, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] (a) There is established the general state employees retirement plan of the Minnesota State Retirement System for state employees.

(b) The ~~system~~ general state employees retirement plan is a continuation of the State Employees Retirement Association.

(c) Any person who was a member of the State Employees Retirement Association on June 30, 1967, is covered by the ~~system~~ general state employees retirement plan and is entitled to all benefits provided by the ~~system~~ plan upon fulfilling the age, service, contribution, and other requirements of this chapter.

Sec. 12. Minnesota Statutes 2004, section 352.021, subdivision 2, is amended to read:

Subd. 2. [STATE EMPLOYEES COVERED.] Every person who ~~is a state employee, as defined in section 352.01, on July 1, 1967, or becomes a state employee after that date as defined in section 352.01~~ is covered by the ~~system~~ general state employees retirement plan. Acceptance of state employment or continuance in state service is deemed to be consent to have deductions made from salary for deposit to the credit of the account of the state employee in the retirement fund.

Sec. 13. Minnesota Statutes 2004, section 352.021, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL EXEMPTIONS.] Any person who is appointed by the governor or lieutenant governor may request exemption from coverage by the general state employees retirement plan under this chapter if the appointee is not ~~so~~ covered at by the plan on the date of appointment. To qualify for this exemption, a written request must be made within 90 days from the date of entering upon the duties of the position to which the person is appointed. After making

the request, a person requesting the exemption is not entitled to coverage by the general state employees retirement plan while employed in the position that entitled that person to an exemption from coverage.

Sec. 14. Minnesota Statutes 2004, section 352.021, subdivision 4, is amended to read:

Subd. 4. [REENTERING SERVICE AFTER REFUND.] When a former employee who has withdrawn accumulated contributions reenters employment in a position entitled to coverage under the system general state employees retirement plan, the employee ~~shall~~ must be covered by the system plan on the same basis as a new employee and is not entitled to credit for any former service. The annuity rights forfeited when taking a refund can only be restored as provided in this chapter.

Sec. 15. Minnesota Statutes 2004, 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 ~~there shall be deposited employees, employee contributions, employers employer contributions, and other amounts authorized by law must be deposited.~~

(b) ~~Effective July 1, 1969, The general state employees retirement plan of the Minnesota State Retirement System shall~~ must participate in the Minnesota postretirement investment fund. ~~In that fund there shall be deposited~~ The amounts provided in section 352.119 must be deposited in the Minnesota postretirement investment fund.

Sec. 16. Minnesota Statutes 2004, 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 for those purposes.

Sec. 17. Minnesota Statutes 2004, section 352.041, subdivision 1, is amended to read:

Subdivision 1. [ALLOWABLE SERVICE CREDIT.] ~~Any~~ (a) An employee covered by the system general state employees retirement plan who is given a leave of absence for employment by a political subdivision of the state ~~shall~~ remains a member of the plan and must continue to pay member contributions into the general state employees retirement fund for the period of leave.

(b) Upon payment of member contributions, the employee must be given allowable service credit as a state employee on the records of the system retirement plan as though the employee had received salary from the state during the leave. Payments into the retirement fund ~~shall~~ must be at the rate required in section 352.04, subdivision 2, and must be based upon the salary received from the political subdivision ~~subject to the maximum amount, if any.~~

Sec. 18. Minnesota Statutes 2004, section 352.041, subdivision 2, is amended to read:

Subd. 2. [EMPLOYEE CONTRIBUTIONS, PROCEDURE.] The officer or employee who is authorized by law to pay salaries to employees of the political subdivision which is employing a state employee ~~shall have~~ must deduct employee contributions ~~deducted for the general state employees retirement plan under section 352.04, subdivision 2,~~ from the salary of each employee who is on leave of absence from state service on each payroll abstract and shall must pay the sum to the director following the conclusion of each pay period.

Sec. 19. Minnesota Statutes 2004, section 352.041, subdivision 3, is amended to read:

Subd. 3. [EMPLOYER CONTRIBUTIONS, PROCEDURE.] The officer or employee who is authorized by law to pay salaries to employees of the political subdivision which is employing a state employee covered by the system ~~shall~~ general state employees retirement plan also must have employer contributions made to the general state employees retirement fund ~~on~~ following the conclusion of each payroll abstract in the amount required by section 352.04, subdivision 3. ~~These contributions are to~~ must be charged to the political subdivision as an administrative cost.

Sec. 20. Minnesota Statutes 2004, section 352.041, subdivision 5, is amended to read:

Subd. 5. [EMPLOYER CONTRIBUTIONS, LEAVES OF ABSENCE; TAX LEVIES.] (a) Every political subdivision which is employing a state employee covered by the system on leave of absence from state service for employment by a political subdivision of the state ~~shall~~ must pay into the general state employees retirement fund the amount of the employer contribution required by law for state employees covered by the system under section 352.04, subdivision 3.

(b) ~~Employing political subdivisions, except other than school districts,~~ may levy taxes necessary for the payment of employer contributions without limitation as to rate or amount. The levy of the taxes ~~does not reduce the amount of other taxes to that may be levied by political subdivisions, except other than school districts,~~ which are subject to any limitation.

Sec. 21. Minnesota Statutes 2004, section 352.15, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION; EXCEPTIONS.] ~~None of the money, annuities, or other benefits mentioned in this chapter is assignable either in law or in equity or subject to execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 1a or section 518.58, 518.581, or 518.6111. The provisions of section 356.401 apply to the general state employees retirement plan and to the correctional state employees retirement plan.~~

Sec. 22. Minnesota Statutes 2004, section 352.15, subdivision 3, is amended to read:

Subd. 3. [DEDUCTING HEALTH OR DENTAL INSURANCE PREMIUMS.] The board may ~~direct~~ authorize, at its discretion, the deduction of a retiree's health or dental insurance premiums and transfer of the amounts to a health or dental insurance carrier covering state employees. The insurance carrier must certify that the retired employee has signed an authorization for the deduction and provide a computer readable roster of covered retirees and amounts. The health or dental insurance carrier must refund deductions withheld from a retiree's check in error directly to the retiree. The board shall require that the insurance carrier to reimburse the fund for the administrative expense of withholding the premium amounts. The insurance carrier shall assume liability for any failure of the system to properly withhold the premium amounts.

Sec. 23. Minnesota Statutes 2004, section 352.15, subdivision 4, is amended to read:

Subd. 4. [DIRECT TRANSFER OF REFUNDS.] A direct transfer of account refunds under this chapter may be made to an individual retirement savings accounts account or a qualified retirement plans plan of the person upon the receipt of an application for transfer by a former employee, on forms acceptable to the executive director.

Sec. 24. Minnesota Statutes 2004, section 352.22, subdivision 10, is amended to read:

Subd. 10. [OTHER REFUNDS.] Former employees covered by the system are entitled to apply for refunds if they are or become members of the State Patrol retirement fund, the state Teachers Retirement Association, or employees of the University of Minnesota excluded from coverage under the system by action of the Board of Regents; ~~or labor service employees, excluded from coverage under section 352.01, subdivision 2b, clause (25);~~ or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from coverage under section 352.01, subdivision 2b, clause (8) (7). The refunds must include accumulated contributions plus interest as provided in subdivision 2. These employees may apply for a refund once 30 days or more have elapsed after their coverage ceases, even if they continue in state service but in positions not covered by this chapter.

Sec. 25. Minnesota Statutes 2004, section 352B.01, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] In this chapter, each of the terms defined in this section have has the meanings meaning given them to it.

Sec. 26. Minnesota Statutes 2004, section 352B.01, subdivision 2, is amended to read:

Subd. 2. [MEMBER.] "Member" means:

(1) a State Patrol member currently employed ~~after June 30, 1943,~~ 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 ~~defined as~~ who is a peace officer ~~in~~ under section 626.84, subdivision 1, paragraph (c), and who is employed with by the Division of Alcohol and Gambling Enforcement under section 299L.01; and

(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.

Sec. 27. Minnesota Statutes 2004, section 352B.01, subdivision 3, is amended to read:

Subd. 3. [ALLOWABLE SERVICE.] (a) "Allowable service" means:

(1) for members defined in subdivision 2, clause ~~(a)~~ (1), ~~monthly service is granted for~~ in any month for which payments have been made to the State Patrol retirement fund, and

(2) for members defined in subdivision 2, clauses ~~(b)~~ (2) and ~~(c)~~ (3), service for which payments have been made to the State Patrol retirement fund, service for which payments were made to the State Police officers retirement fund 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 return to employment.

(c) MS 2002 (Expired)

(d) Allowable service means 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 plan.

Sec. 28. Minnesota Statutes 2004, section 352B.02, subdivision 1e, is amended to read:

Subd. 1e. [AUDIT; ACTUARIAL VALUATION.] The legislative auditor shall audit the fund. Any actuarial valuation of the fund required under section 356.215 must be prepared by the actuary retained under section 356.214. Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the ~~commission-retained actuary~~ retained under section 356.214. Any supplemental actuarial valuation or experience studies shall must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 29. Minnesota Statutes 2004, section 352B.071, is amended to read:

352B.071 [EXEMPTION FROM PROCESS.]

~~None of the money, annuities, or other benefits provided for in this chapter is assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111. The provisions of section 356.401 apply to the State Patrol retirement plan.~~

Sec. 30. Minnesota Statutes 2004, section 352D.01, is amended to read:

352D.01 [ESTABLISHMENT.]

There is hereby established within the Minnesota State Retirement System a retirement program for certain public employees to be known as the Minnesota unclassified employees retirement program, ~~which shall be.~~ The program must be administered by the Minnesota State Retirement System.

Sec. 31. Minnesota Statutes 2004, section 352D.015, subdivision 3, is amended to read:

Subd. 3. [SUPPLEMENTAL INVESTMENT FUND.] "Supplemental investment fund" means the fund established and governed by section 11A.17.

Sec. 32. Minnesota Statutes 2004, section 352D.015, subdivision 4, is amended to read:

Subd. 4. [GENERAL FUND.] "General fund" means the general state employees retirement fund except the moneys for the unclassified program.

Sec. 33. Minnesota Statutes 2004, section 352D.03, is amended to read:

352D.03 [TRANSFER OF ASSETS.]

Unless an eligible employee enumerated in section 352D.02, subdivision 1 ~~or 1a~~, has elected coverage under the individual retirement account plan under chapter 354B, a sum of money representing the assets credited to each employee exercising the option contained in section 352D.02, plus an equal employer contribution together with interest for the employment period at the ~~actuarially assumed rates applicable preretirement interest actuarial assumption rate~~ during this period, compounded annually, ~~shall~~ must be used for the purchase of shares on behalf of each employee in the accounts of the supplemental retirement fund established by section 11A.17. ~~Any employer's contribution to amortize the deficit in the state employee's retirement fund shall not, however, be used for the purchase of shares.~~

Sec. 34. Minnesota Statutes 2004, section 352D.05, subdivision 4, is amended to read:

Subd. 4. [REPAYMENT OF REFUND.] (a) A participant in the unclassified program may repay regular refunds taken ~~pursuant to~~ under section 352.22, as provided in section 352.23.

(b) A participant in the unclassified program or an employee covered by the general plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund the amount refunded plus interest at an annual rate of 8.5 percent compounded annually from the date that the refund was taken until the date that the refund is repaid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall must be pro rata. ~~Payment shall~~

(c) Except as provided in section 356.441, the repayment of a refund under this section must be made in a lump sum.

Sec. 35. Minnesota Statutes 2004, section 352D.085, subdivision 1, is amended to read:

Subdivision 1. [COMBINED SERVICE.] Except as provided in section 356.30, 356.302, or 356.303, service under the unclassified program for which the employee has been credited with employee shares may be used for the limited purpose of qualifying for benefits under sections 352.115, 352.72, subdivision 1, 352.113, 354.44, 354.45, 354.48, and 354.60; provided such. The service also may not be used to qualify for a disability benefit under section 352.113 or 354.48 if a participant was under the unclassified program at the time of the disability, and provided further that. Also, the years of service and salary paid while the participant was in the unclassified program shall may not be used in determining the amount of benefits.

Sec. 36. Minnesota Statutes 2004, section 352D.09, subdivision 5, is amended to read:

Subd. 5. [UNCLAIMED BENEFITS.] If the beneficiary, surviving spouse or estate has not made application for benefits within ten years after the date of the death of a participant, the value of the shares shall be is appropriated to the regular general state employees retirement fund and the provisions of section 352.12, subdivision 12 shall govern. If a former participant fails to make a claim for benefits within five years after the termination of covered service or by age 70, whichever is later, the value of the shares shall be is appropriated to the general state employees retirement fund and the provisions of section 352.22, subdivision 8, shall apply.

Sec. 37. Minnesota Statutes 2004, section 352D.12, is amended to read:

352D.12 [TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.]

(a) An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under ~~chapters 3A, chapter 352, 352C, 353, 354, 354A, and or 422A~~ may, within the time limits specified in this section, elect to transfer to the unclassified program prior service contributions to one or more of those plans. ~~Participants with six or more years of prior service credit in a plan governed by chapter 3A or 352C on July 1, 1998, may not transfer prior service contributions. Participants with less than six years of prior service credit in a plan governed by chapter 3A or 352C on July 1, 1998, must be contributing to the unclassified plan on or after January 5, 1999, in order to transfer prior contributions.~~

(b) For participants with prior service credit in a plan governed by chapter 352, 353, 354, 354A, or 422A, "prior service contributions" means the accumulated employee and equal employer contributions with interest at an annual rate of 8.5 percent compounded annually, based on fiscal year balances. ~~For participants with less than six years of service credit as of July 1, 1998, and with prior service credit in a plan governed by chapter 3A or 352C, "prior service contributions" means an amount equal to twice the amount of the accumulated member contributions plus annual compound interest at the rate of 8.5 percent, computed on fiscal year balances.~~

(c) If a participant has taken a refund from a retirement plan listed in this section, the participant may repay the refund to that plan, notwithstanding any restrictions on repayment to that plan, plus 8.5 percent interest compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at an annual rate of 8.5 percent compounded annually based on fiscal year balances. If a person repays a refund and subsequently elects to have the money transferred to the unclassified program, the repayment amount, including interest, is added to the fiscal year balance in the year which the repayment was made.

(d) A participant electing to transfer prior service contributions credited to a retirement plan governed by chapter 352, 353, 354, 354A, or 422A as provided under this section must complete the a written application for the transfer and repay any refund within one year of the commencement of the employee's participation in the unclassified program. ~~A participant electing to transfer prior service contributions credited to a retirement plan governed by chapter 3A or 352C as provided under this section must complete the application for the transfer and repay any~~

~~refund between January 5, 1999, and June 1, 1999, if the employee commenced participation in the unclassified program before January 5, 1999, or within one year of the commencement of the employee's participation in the unclassified program if the employee commenced participation in the unclassified program after January 4, 1999.~~

Sec. 38. Minnesota Statutes 2004, section 353.01, subdivision 32, is amended to read:

Subd. 32. [COORDINATED MEMBER.] "Coordinated member" means ~~any a~~ a public employee, including ~~any a~~ a public hospital employee, who is covered by ~~any an~~ an agreement or modification made between the state and the Secretary of Health, Education and Welfare Human Services, making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to the member if the membership eligibility criteria are met under this chapter. A coordinated member also is a former basic member who has a complete and continuous separation for at least 30 days from employment as a public employee meeting the requirements specified in subdivision 28, paragraphs (a) and (b), and who reenters public service as a public employee and meets the membership eligibility criteria under this chapter.

Sec. 39. Minnesota Statutes 2004, section 353.01, subdivision 33, is amended to read:

Subd. 33. [BASIC MEMBER.] "Basic member" means ~~any a~~ a public employee, including ~~any a~~ a public hospital employee, who is not covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare Human Services.

Sec. 40. Minnesota Statutes 2004, section 353.025, is amended to read:

353.025 [RANGE ASSOCIATION OF MUNICIPALITIES AND SCHOOLS.]

~~From and after January 1, 1982, Employees of the Range Association of Municipalities and Schools hereinafter referred to as the association, shall become~~ are coordinated members of the general employees retirement plan of the Public Employees Retirement Association unless specifically exempt under section 353.01, subdivision 2b, ~~and. The Range Association shall be deemed to be of Municipalities and Schools is~~ a governmental subdivision for the purposes of this chapter.

Sec. 41. Minnesota Statutes 2004, section 353.026, is amended to read:

353.026 [COVERAGE FOR CERTAIN MUNICIPAL AND SCHOOL DISTRICT EMPLOYEES.]

Any person who was employed by the city of Minneapolis, Special School District No. 1, or public corporation as defined in section 422A.01, subdivision 9, on or after July 1, 1978, and ~~prior to before~~ prior to July 1, 1979, and who was excluded from retirement coverage by the coordinated program of the Minneapolis municipal employees retirement fund ~~pursuant to under~~ under section 422A.09, subdivision 3, ~~shall be~~ is entitled to retirement coverage by the general employees retirement plan of the Public Employees Retirement Association unless specifically excluded pursuant to under section 353.01, subdivision 2b, from and after May 19, 1981.

Sec. 42. Minnesota Statutes 2004, section 353.027, is amended to read:

353.027 [RETENTION OF COVERAGE FOR CERTAIN MUNICIPAL COURT EMPLOYEES.]

Any person employed on January 1, 1975, by a municipal court established ~~pursuant to under~~ under Minnesota Statutes 1957, section 488.03, and located in the cities of New Brighton, Roseville, Maplewood, North Saint Paul, White Bear Lake, or St. Paul ~~shall be~~ is eligible for membership in the general employees retirement plan of the Public Employees Retirement Association and shall retain ~~retains~~ any rights or benefits the person had attained as a member of the general employees retirement plan of the association on January 1, 1975, so long as the person remains an employee of the municipal court of Ramsey County.

Sec. 43. Minnesota Statutes 2004, section 353.028, is amended to read:

## 353.028 [CITY MANAGERS; ELECTION; DEFERRED COMPENSATION.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, each of the terms in this subdivision has the meaning indicated.

(b) "City manager" means (1) a person who is duly appointed to and is holding the position of city manager in a Plan B statutory city or in a home rule city operating under the "council-manager" form of government, or (2) a person who is appointed to and is holding the position of chief administrative officer of a home rule charter city or a statutory city pursuant to under a charter provision, ordinance, or resolution establishing such a position and prescribing its duties and responsibilities.

(c) "Governing body" means the city council of the city employing the city manager.

(d) "Election" means the election described in subdivision 2.

Subd. 2. [ELECTION.] (a) A city manager may elect to be excluded from membership in the general employees retirement plan of the Public Employees Retirement Association. The election of exclusion must be made within six months following the commencement of employment, must be made in writing on a form prescribed by the executive director, and must be approved by a resolution of adopted by the governing body of the city. The election of exclusion is not effective until it is filed with the executive director. Membership of a city manager in the ~~association~~ general employees retirement plan ceases on the date the written election is received by the executive director or upon a later date specified. Employee and employer contributions made on behalf of a person exercising the option to be excluded from membership under this section must be refunded in accordance with section 353.27, subdivision 7.

(b) A city manager who has elected exclusion under this subdivision may elect to revoke that action by filing a written notice with the executive director. The notice must be on a form prescribed by the executive director and must be approved by a resolution of the governing body of the city. Membership of the city manager in the association resumes prospectively from the date of the first day of the pay period for which contributions were deducted or, if pay period coverage dates are not provided, the date on which the notice of revocation or contributions are received in the office of the association, provided that the notice of revocation is received by the association within 60 days of the receipt of contributions.

(c) An election under paragraph (b) is irrevocable. Any election under paragraph (a) or (b) must include a statement that the individual will not seek authorization to purchase service credit for any period of excluded service.

Subd. 3. [DEFERRED COMPENSATION; CITY CONTRIBUTION.] If an election of exclusion is made, and if the city manager and the governing body of the city additionally agree in writing that the additional compensation is to be deferred and shall is to be contributed on behalf of the city manager to a deferred compensation program which meets the requirements of section 457 of the Internal Revenue Code of 1954 ~~1986~~, as amended ~~through December 31, 1980~~, the governing body may compensate the city manager, in addition to the salary allowed under any limitation imposed on salaries by law or charter, in an amount equal to the employer contribution which would be required by section 353.27, subdivision 3, if the city manager were a member of the ~~association~~ general employees retirement plan.

Subd. 4. [REFUNDS; DEFERRED ANNUITY.] A city manager who makes an election to be excluded from membership is entitled to a refund of accumulated deductions or, if otherwise qualified, a deferred annuity ~~in the manner provided by~~ under section 353.34, at the option of the manager.

Subd. 5. [ELECTION; OTHER EMPLOYMENT.] If a city manager who has made an election to be excluded subsequently accepts employment in another governmental subdivision or subsequently accepts employment other than as a city manager in the same city, the election ~~shall be deemed to have been~~ is rescinded on the effective date of employment.

Sec. 44. Minnesota Statutes 2004, section 353.14, is amended to read:



## 353.14 [BENEFITS FROM OTHER FUNDS.]

No annuity or benefit provided by this chapter shall ~~may~~ be affected, diminished, or impaired by any pension, benefit, or annuity which any member or survivor is entitled to receive from a tax supported public retirement plan or system authorized by any other law, ~~for~~ based on service that is different service than the service for which the member or survivor is entitled to receive benefit or annuity from a retirement plan administered by the Public Employees Retirement Association.

Sec. 45. Minnesota Statutes 2004, section 353.15, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION; EXCEPTIONS.] ~~No money, annuity, or benefit provided for in this chapter is assignable or subject to execution, levy, attachment, garnishment, or legal process, except as provided in subdivision 2 or section 518.58, 518.581, or 518.6111. The provisions of section 356.401 apply to the general employees retirement plan, to the public employees police and fire retirement plan, and to the local government correctional service retirement plan.~~

Sec. 46. Minnesota Statutes 2004, section 353.15, subdivision 3, is amended to read:

Subd. 3. [PAYMENT TO PUBLIC BODIES.] If, in the judgment of the executive director, conditions so warrant, payment of an annuity, a retirement benefit, or a refund may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

Sec. 47. Minnesota Statutes 2004, section 353.27, subdivision 11, is amended to read:

Subd. 11. [EMPLOYERS; REQUIRED TO FURNISH REQUESTED INFORMATION.] (a) All governmental subdivisions shall furnish promptly such other information relative to the employment status of all employees or former employees, including, but not limited to, payroll abstracts pertaining to all past and present employees, as may be requested by the ~~association or its~~ executive director, including schedules of salaries applicable to various categories of employment.

(b) In the event payroll abstract records have been lost or destroyed, for whatever reason or in whatever manner, so that such schedules of salaries cannot be furnished therefrom, the employing governmental subdivision, in lieu thereof, shall furnish to the association an estimate of the earnings of any employee or former employee for any period as may be requested by the ~~association or its~~ executive director. ~~Should~~ If the association ~~receive such schedules~~ is provided a schedule of estimated earnings, the executive director is hereby authorized to use the same as a basis for making whatever computations might be necessary for determining obligations of the employee and employer to the retirement fund. If estimates are not furnished by the employer ~~pursuant to~~ at the request of the ~~association or its~~ executive director, the ~~association~~ executive director may estimate the obligations of the employee and employer to the retirement fund based upon such those records as that are in its possession. ~~Where payroll abstracts have been lost or destroyed, the governmental agency need not furnish any information pertaining to employment prior to July 1, 1963. The association shall make no estimate of any obligation of any employee, former employee, or employer covering employment prior to July 1, 1963.~~

Sec. 48. Minnesota Statutes 2004, section 353.271, is amended to read:

## 353.271 [PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.]

Subdivision 1. [AUTHORIZATION.] ~~The general employees retirement plan of the Public Employees Retirement Association, including the public employees police and fire fund but excluding the various local relief association consolidation accounts, is retirement plan, and the local government correctional service retirement plan are authorized to participate in the Minnesota postretirement investment fund. There shall be is one general participation in the Minnesota postretirement investment fund for all purposes by each plan of the Public Employees Retirement fund and one general participation in the Minnesota postretirement investment fund for all purposes by the public employees police and fire fund Association.~~

Subd. 2. [VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS.] (4) (a) The required reserves for retirement annuities payable as provided in this chapter other than those payable from

the various local relief association consolidation accounts, as determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214, and approved under section 356.215, subdivision 18, and using the postretirement interest assumption specified in section 356.215, subdivision 8, shall must be transferred to the Minnesota postretirement investment fund as of the last business day of the month in which the retirement annuity begins.

~~(2) (b) Annuity payments other than those payable from the various local relief association consolidation accounts shall~~ must be adjusted in accordance with the provisions of section 11A.18.

~~(3) (c) Increases in payments pursuant to under this section or from the various local relief association consolidation accounts, if applicable, will~~ must be made automatically unless the intended recipient files written notice with the executive director of the Public Employees Retirement Association requesting that the increase shall not be made.

Sec. 49. Minnesota Statutes 2004, section 353.31, subdivision 1c, is amended to read:

Subd. 1c. [COORDINATED MEMBERS.] Except for benefits provided under section 353.32, ~~subdivisions 1 and 1a,~~ no survivor benefits are payable to the surviving spouse or dependent children of a deceased coordinated member.

Sec. 50. Minnesota Statutes 2004, section 353.32, subdivision 9, is amended to read:

Subd. 9. [PAYMENT TO A MINOR.] If a member or former member dies having named as beneficiary a person who is a minor at the time of the application for refund, the board may make the payment ~~(a) (1) directly to the minor, (b) (2) to any a person who has legally qualified and is acting as guardian of the minor's person or property in any jurisdiction, or (c) (3) to either parent of the minor or to any an adult person with whom the minor may at the time be living, provided only that. The parent or other person to whom any amount is to be paid shall have advised~~ must advise the board in writing that the amount will be held or used in trust for the benefit of such minor. Any annuity or disability benefit payable at the time of death of an annuitant or recipient of a disability benefit, which is payable to a beneficiary who is a minor, may be paid in the same manner. ~~Such~~ The payment shall be is a bar to recovery by any other person or persons.

Sec. 51. Minnesota Statutes 2004, section 353.33, subdivision 12, is amended to read:

Subd. 12. [BASIC DISABILITY SURVIVOR BENEFITS.] If a basic member who is receiving a disability benefit under subdivision 3:

~~(a) (1) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse shall be entitled to receive a survivor benefit under section 353.31, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1;~~

~~(b) (2) 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 disability benefit, or 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

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

Sec. 52. Minnesota Statutes 2004, section 354.091, is amended to read:

354.091 [SERVICE CREDIT.]

(a) In computing service credit, no teacher shall ~~may~~ receive credit for more than one year of teaching service for any fiscal year. ~~Commencing July 1, 1961~~ Additionally, in crediting allowable service:

(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;

(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;

(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and

(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year in the same relationship as the period of service performed bears to 170 days.

(b) A teacher shall must receive a full year of service credit based on the number of days in the employer's full school year if it that school year is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.

(c) A teacher must not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting teaching service and the procedures for determining service credit must be determined by the executive director with the approval of the board of trustees.

(d) For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:

(1) for full-time employees, by the definition of full-time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1;

(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and

(3) in no case may a member receive more than one year of service credit for any fiscal year.

Sec. 53. Minnesota Statutes 2004, section 354.10, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION; EXCEPTIONS.] (a) The provisions of section 356.401 apply to the teachers retirement plan.

(b) The right of a teacher to take advantage of the benefits provided by this chapter, is a personal right only and is not assignable. All money to the credit of a teacher's account in the fund or any money payable to the teacher from the fund belongs to the state of Minnesota until actually paid to the teacher or a beneficiary under this chapter.

(c) ~~The association may acknowledge a properly completed power of attorney form. An assignment or attempted assignment of a teacher's interest in the fund, or of the beneficiary's interest in the fund, by a teacher or a beneficiary is void and exempt from garnishment or levy under attachment or execution, except as provided in subdivision 2 or 3, or section 518.58, 518.581, or 518.6111.~~

Sec. 54. Minnesota Statutes 2004, section 354.10, subdivision 3, is amended to read:

Subd. 3. [PAYMENT TO PUBLIC BODIES.] If, in the judgment of the executive director,

conditions so warrant, payment of an annuity, a retirement benefit, or a refund may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

Sec. 55. Minnesota Statutes 2004, section 354.10, subdivision 4, is amended to read:

Subd. 4. [CHANGES IN DESIGNATED BENEFICIARIES.] ~~Any~~ (a) A beneficiary designated by a retiree or member under section 354.05, subdivision 22, may be changed or revoked by the retiree or member on a form provided by the executive director.

(b) A change or revocation made under this subdivision is valid only if the properly completed form is received by the association on or before the date of death of the retiree or the member.

(c) If a designated beneficiary dies before the retiree or member designating the beneficiary, and a new beneficiary is not designated, the retiree's or member's estate is the beneficiary.

Sec. 56. Minnesota Statutes 2004, section 354.33, subdivision 5, is amended to read:

Subd. 5. [RETIREEES NOT ELIGIBLE FOR FEDERAL BENEFITS.] Notwithstanding the provisions of section 354.55, subdivision 3, when any person retires after July 1, 1973, who ~~(a) (1)~~ has ten or more years of allowable service, and ~~(b) (2)~~ does not have any retroactive Social Security coverage by reason of the person's position in the retirement system, and ~~(e) (3)~~ does not qualify for federal old age and survivor primary benefits at the time of retirement, the annuity ~~shall~~ 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, shall~~ must be calculated using the same mortality table and interest assumption as are used to transfer the required reserves to the Minnesota postretirement investment fund.

Sec. 57. Minnesota Statutes 2004, section 354.39, is amended to read:

354.39 [EFFECTIVE DATE; APPLICATION.]

~~After July 1, 1971, any~~ A member of the Teachers Retirement Association who is employed in a new state university ~~and or any other new institutions~~ institution of higher learning not included in any agreement or modification made between the state and the federal Secretary of Health, Education and Welfare Human Services, making the provisions of the federal Old Age and Survivors and Disability Insurance Act applicable to such members, ~~shall~~ must be covered under the provisions of this chapter applicable to coordinated members.

Sec. 58. Minnesota Statutes 2004, section 354.41, subdivision 2, is amended to read:

Subd. 2. [TEACHERS.] Every teacher ~~after June 30, 1957, in the service or entering the service~~ of the state or one of its governmental ~~subdivision~~ subdivisions as a teacher, except persons ~~specifically~~ specifically excluded, ~~shall~~ must become a member of the association by the acceptance of such employment.

Sec. 59. Minnesota Statutes 2004, section 354.42, is amended by adding a subdivision 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. 60. Minnesota Statutes 2004, section 354.44, subdivision 2, is amended to read:

Subd. 2. [COMPUTATION OF MONEY PURCHASE ANNUITY.] (a) The amount of retirement annuity is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest thereon. The annuity shall must be determined by the member's age, sex, double the amount of accumulated deductions, double the amount of interest earned on the accumulated deductions, and the appropriate mortality tables and interest rates. To determine the amount of the annuity for a basic member, the accumulated deductions prior to before July 1, 1957, and the accumulated deductions subsequent to after July 1, 1957, shall must be considered separately.

(1) (b) For service rendered prior to before July 1, 1957, the accumulated deductions for any a member shall must be carried forward at a fixed amount which is shown credited to the member's account as of that date. That fixed amount shall must also include any payments in lieu of salary deductions which are to be made in the future and are were actually so made pursuant to under an agreement executed between the member and the board as authorized by section 354.50 or any other authorized payments made by the member to the fund. The annuity granted with respect to the period shall must be determined as follows:

(a) (1) the fixed amount of the accumulated deductions for the period including the interest credited on the amount as earned up to July 1, 1957; and

(b) (2) annuity purchase rates based on the applicable mortality table established by the board and the interest rate assumption in effect prior to before July 1, 1957, in the case of basic members and an annuity purchase rate based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8, in the case of coordinated members.

(2) (c) For service rendered subsequent to after July 1, 1957, the accumulated deductions for any a member shall must consist of the amounts actually credited to the member's account by reason of salary deductions. The annuity granted with respect to the period shall must be determined by the following:

(a) (1) accumulated deductions for the period;

(b) (2) interest credited on these accumulated deductions from July 1, 1957, to the date of retirement;

(c) (3) interest credited on accumulated deductions including prior credited interest provided in paragraph (1) (b) from July 1, 1957, to the date of retirement;

(d) (4) after the amount available for an annuity granted with respect to the person is determined in accordance with the provisions of this subdivision, an additional amount equal to 20 percent of the sum of clause (2)(a) (1) plus interest credited to ~~members~~ a member's account from July 1, 1957, to date of retirement is to be added. This added amount is not to be doubled as provided for other amounts determined in this subdivision; and

(e) (5) the annuity purchase rate based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 61. Minnesota Statutes 2004, section 354A.021, subdivision 5, is amended to read:

Subd. 5. [TAX SHELTERED ANNUITY PROGRAM AND FUND.] Any A teachers retirement fund association may establish a tax sheltered annuity program and fund meeting the requirements of section 403(b) of the Internal Revenue Code of 1986, as amended through ~~December 31, 1992~~, which shall must include all assets which were acquired for the specific purpose of being credited to the program and fund and to which shall must be credited all employee contributions, and employer contributions, if negotiated under a collective bargaining agreement, designated for this purpose and all interest income attributable to the assets of the program and fund.

Sec. 62. Minnesota Statutes 2004, section 354A.097, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who performed service in the United States armed forces before becoming a teacher as defined in section 354A.011, subdivision 27, or who failed to obtain service credit for a military leave of absence period under section 354A.093, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section ~~356.55~~ provided 356.551 if the teacher has not purchased service credit from another Minnesota defined benefit public employee pension plan for the same period of service.

Sec. 63. Minnesota Statutes 2004, section 354A.31, subdivision 5, is amended to read:

Subd. 5. [UNREDUCED NORMAL RETIREMENT ANNUITY.] Upon retirement at normal retirement age with at least three years of service credit, a coordinated member ~~shall be~~ is entitled to a normal retirement annuity calculated ~~pursuant to~~ under subdivision 4 or 4a, whichever applies.

Sec. 64. [356.401] [EXEMPTION FROM PROCESS.]

Subdivision 1. [EXEMPTION; EXCEPTIONS.] None of the money, annuities, or other benefits provided for in the governing law of a covered retirement plan is assignable either in law or in equity or subject to state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 2 or section 518.58, 518.581, or 518.6111.

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 to the applicable financial institution for deposit in the person's individual account or the person's joint account. 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.

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 Teachers Retirement Association, established by chapter 354;
- (12) 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 sections 490.121 to 490.132.

Sec. 65. Minnesota Statutes 2004, section 356.551, is amended to read:

356.551 [POST JULY 1, 2003 2004, PRIOR SERVICE CREDIT PURCHASE PAYMENT AMOUNT DETERMINATION PROCEDURE.]

Subdivision 1. [APPLICATION.] (a) Unless the prior service credit purchase authorization special law or general statute provision explicitly specifies a different purchase payment amount determination procedure, and if section 356.55 has expired, this section governs the determination of the prior service credit purchase payment amount of any prior service credit purchase.

(b) The purchase payment amount determination procedure must recognize any service credit accrued to the purchaser in a pension plan enumerated in section 356.30, subdivision 3.

(c) Any service credit in a Minnesota defined benefit public employee pension plan available to be reinstated by the purchaser through the repayment of a refund of member or employee contributions previously received must be repaid in full before any purchase of prior service credit payment is made under this section.

Subd. 2. [DETERMINATION.] (a) Unless the minimum purchase amount set forth in paragraph (c) applies, the prior service credit purchase amount is an amount equal to the actuarial present value, on the date of payment, as calculated by the chief administrative officer of the pension plan and reviewed by the actuary retained by the Legislative Commission on Pensions and Retirement under section 356.214, of the amount of the additional retirement annuity obtained by the acquisition of the additional service credit in this section.

(b) Calculation of this amount must be made using the preretirement interest rate applicable to the public pension plan specified in section 356.215, subdivision 4d 8, and the mortality table adopted for the public pension plan. The calculation must assume continuous future service in the public pension plan until, and retirement at, the age at which the minimum requirements of the fund for normal retirement or retirement with an annuity unreduced for retirement at an early age, including section 356.30, are met with the additional service credit purchased. The calculation must also assume a full-time equivalent salary, or actual salary, whichever is greater, and a future salary history that includes annual salary increases at the applicable salary increase rate for the plan specified in section 356.215, subdivision 4d.

(c) The prior service credit purchase amount may not be less than the amount determined by applying the current employee or member contribution rate, the employer contribution rate, and

the additional employer contribution rate, if any, to the person's current annual salary and multiplying that result by the number of whole and fraction years of service to be purchased.

(d) Payment must be made in one lump sum within one year of the prior service credit authorization. Payment of the amount calculated under this section must be made by the applicable eligible person.

(e) However, the current employer or the prior employer may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of 8.5 percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made. If the employer agrees to payments under this subdivision, the purchaser must make the employee payments required under this subdivision within ~~290~~ 90 days of the prior service credit authorization. If that employee payment is made, the employer payment under this subdivision must be remitted to the chief administrative officer of the public pension plan within 60 days of receipt by the chief administrative officer of the employee payments specified under this subdivision.

Subd. 3. [DOCUMENTATION.] The prospective prior service credit purchaser must provide any relevant documentation required by the chief administrative officer of the applicable public pension plan to determine eligibility for the prior service credit under this section.

Subd. 4. [PAYMENT PRECONDITION FOR CREDIT GRANT.] Service credit for the purchase period must be granted by the public pension plan to the purchaser upon receipt of the full purchase payment amount specified in subdivision 2.

Sec. 66. Minnesota Statutes 2004, section 356A.06, subdivision 7, is amended to read:

Subd. 7. [EXPANDED LIST OF AUTHORIZED INVESTMENT SECURITIES.] (a) [AUTHORITY.] Except to the extent otherwise authorized by law or bylaws, a covered pension plan not described by subdivision 6, paragraph (a), may invest its assets only in accordance with this subdivision.

(b) [SECURITIES GENERALLY.] The covered pension plan has the authority to purchase, sell, lend, or exchange the securities specified in paragraphs (c) to (g), including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned as units in commingled trusts that own the securities described in paragraphs (c) to (g).

(c) [GOVERNMENT OBLIGATIONS.] The covered pension plan may invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness provided the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which funds may be invested under this paragraph include guaranteed or insured issues of (1) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (2) Canada and its provinces, provided the principal and interest is payable in United States dollars; (3) the states and their municipalities, political subdivisions, agencies, or instrumentalities; (4) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars.

(d) [CORPORATE OBLIGATIONS.] The covered pension plan may invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof if they conform to the following provisions:

(1) the principal and interest of obligations of corporations incorporated or organized under the



laws of the Dominion of Canada or any province thereof must be payable in United States dollars; and

(2) obligations must be rated among the top four quality categories by a nationally recognized rating agency.

(e) [OTHER OBLIGATIONS.] (1) The covered pension plan may invest funds in bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage participation certificates and pools, asset backed securities, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:

(i) bankers acceptances and deposit notes of United States banks are limited to those issued by banks rated in the highest four quality categories by a nationally recognized rating agency;

(ii) certificates of deposit are limited to those issued by (A) United States banks and savings institutions that are rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies; or (B) credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration;

(iii) commercial paper is limited to those issued by United States corporations or their Canadian subsidiaries and rated in the highest two quality categories by a nationally recognized rating agency;

(iv) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3;

(v) collateral for repurchase agreements and reverse repurchase agreements is limited to letters of credit and securities authorized in this section;

(vi) guaranteed investment contracts are limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this subdivision;

(vii) savings accounts are limited to those fully insured by federal agencies; and

(viii) asset backed securities must be rated in the top four quality categories by a nationally recognized rating agency.

(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the covered pension plan under clause (1), item (ii).

(3) In addition to investments authorized by clause (1), item (iv), the covered pension plan may purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The covered pension plan may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The covered pension plan may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the covered pension plan comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The covered pension plan may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

(f) [CORPORATE STOCKS.] The covered pension plan may invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or the states thereof, the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange, if they conform to the following provisions:

(1) the aggregate value of corporate stock investments, as adjusted for realized profits and losses, must not exceed 85 percent of the market or book value, whichever is less, of a fund, less the aggregate value of investments according to ~~subdivision 6~~ paragraph (g);

(2) investments must not exceed five percent of the total outstanding shares of any one corporation.

(g) [OTHER INVESTMENTS.] (1) In addition to the investments authorized in paragraphs (b) to (f), and subject to the provisions in clause (2), the covered pension plan may invest funds in:

(i) venture capital investment businesses through participation in limited partnerships and corporations;

(ii) real estate ownership interests or loans secured by mortgages or deeds of trust through investment in limited partnerships, bank sponsored collective funds, trusts, and insurance company commingled accounts, including separate accounts;

(iii) regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940;

(iv) resource investments through limited partnerships, private placements, and corporations; and

(v) international securities.

(2) The investments authorized in clause (1) must conform to the following provisions:

(i) the aggregate value of all investments made according to clause (1) may not exceed 35 percent of the market value of the fund for which the covered pension plan is investing;

(ii) there must be at least four unrelated owners of the investment other than the state board for investments made under clause (1), item (i), (ii), (iii), or (iv);

(iii) covered pension plan participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), (iii), or (iv); and

(iv) covered pension plan participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The covered pension plan may not engage in any activity as a limited partner which creates general liability.

Sec. 67. Minnesota Statutes 2004, section 422A.01, subdivision 11, is amended to read:

Subd. 11. [EMPLOYEE.] "Employee" means any person who is not exempted from the contributing class pursuant to under section 422A.09, subdivision 3, who is was employed before July 1, 1979, by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of city government or independently if financed in whole or in part by city funds, including any a person who was employed by a public corporation as herein defined, and including any a person who was employed before July 1, 1979, by Special School District No. 1, and who is not a member of any other retirement system, and also including any a person who is was employed before July 1, 1973, by the county of Hennepin, who was entitled by law to elect and has elected to retain membership in the municipal Minneapolis Employees Retirement Fund and who makes any required member contributions to the fund and who remains so employed.

Sec. 68. Minnesota Statutes 2004, section 422A.06, subdivision 7, is amended to read:

Subd. 7. [DISABILITY BENEFIT FUND.] (a) ~~The required reserves for disability allowances~~

~~which become effective after December 31, 1973, shall be transferred from the deposit accumulation fund to the A disability benefit fund is established, containing the required reserves for disability allowances under this chapter. A proportionate share of income from investments shall must be allocated to this fund. There shall must be paid from this fund the disability allowances which become effective after December 31, 1973 payable under this chapter.~~

(b) In the event of the termination of any disability allowance for any reason other than the death of the recipient, the balance of the required reserves for the disability allowance as of the date of the termination shall must be transferred from the disability benefit fund to the deposit accumulation fund.

(c) At the end of each fiscal year, as part of the annual actuarial valuation, a determination shall must be made of the required reserves for all disability allowances being paid from the disability benefit fund. Any excess of assets over actuarial required reserves in the disability benefit fund shall must be transferred to the deposit accumulation fund. Any excess of actuarial reserves over assets in the disability benefit fund shall must be funded by a transfer of the appropriate amount of assets from the deposit accumulation fund.

Sec. 69. Minnesota Statutes 2004, section 422A.10, subdivision 1, is amended to read:

Subdivision 1. [~~MEMBER CONTRIBUTION RATE; DEDUCTIONS.~~] (a) There shall must be deducted and withheld from the basic salary, pay or compensation of each employee in the contributing class, ~~prior to January 1, 1980 an amount equal to 7-1/4 percent, after December 31, 1979 but prior to January 1, 1981 an amount equal to 8-1/4 percent and after December 31, 1980 an amount equal to 9-1/4 percent of such salary, pay or compensation, except as hereinafter provided.~~

(b) The retirement board may increase the percentage rate of contribution to the retirement fund of any employee or employees for the purpose of establishing and maintaining on an actuarial basis a plan of insurance, survivors' benefits, or other type of benefit or benefits, the cost of which shall must be paid out of such extra percentage so authorized and deducted from the employee's compensation, except as hereinafter provided. Any plan or plans so established and placed in operation may be amended from time to time, or may be abandoned, but if abandoned, any surplus remaining from the operation of a plan shall must be the property of the fund, and shall must be credited to the reserve for loss in investment account.

Sec. 70. Minnesota Statutes 2004, section 422A.10, subdivision 2, is amended to read:

Subd. 2. [~~CONSENT TO DEDUCTIONS MANDATORY MEMBER CONTRIBUTIONS.~~] Every employee to whom sections 422A.01 to 422A.25 this chapter applies who shall continue in the service after the passage of Laws 1919, chapter 522, as well as every person to whom sections 422A.01 to 422A.25 applies who may hereafter be appointed to a position or place, shall be is deemed to consent and agree to the deductions made and provided for herein, and payment with such reductions, for service, shall be are a full and complete discharge and acquittance of all claims and demands for all services rendered by such person during the period covered by such payment; except the person's claim to the benefits to which the person may be entitled under the provisions of sections ~~422A.01 to 422A.25~~ this chapter.

Sec. 71. Minnesota Statutes 2004, section 422A.22, subdivision 1, is amended to read:

Subdivision 1. [~~RETENTION; TRANSFER.~~] (a) If an employee to whom sections ~~422A.01 to 422A.25~~ this chapter applies becomes absolutely separated from the active service prior to before attaining the minimum retirement age established in section 422A.13, the employee is entitled to a refund of the net accumulated amount of deduction from salary, pay, or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employee, with interest at the annual compound rate of six percent.

(b) Any contributing employee who separates from a department, board or commission of the city whose employees are covered by a fund organized under sections ~~422A.01 to 422A.25~~ this chapter, and becomes an employee of a department or board of the same city, whose employees

are covered by a retirement fund or relief association by whatever name known, organized under any other law and supported in whole or in part by taxes on the same city, shall ~~have~~ has the option of:

(1) retaining their membership in the fund organized under ~~sections 422A.01 to 422A.25~~ this chapter, regardless of the provisions of any law, rule, bylaw or other action requiring membership ~~in any other retirement fund or relief association however organized;~~ or

(2) transferring to the fund or association covering the employees of the department or board to which they are transferring, providing they are eligible for membership therein.

(c) Any contributing employee who elects to transfer to another fund or association as ~~herein~~ provided in paragraph (b), clause (2), shall ~~must~~ make such election within one year from the date of separation from the city service covered by this fund. If the contributing employee elects to transfer to another fund as ~~herein provided~~, the employee is entitled to a refund of the net accumulated contributions made by such employee to the fund organized under ~~sections 422A.01 to 422A.25~~, shall ~~be returned to the employee~~ this chapter with interest at the annual compound rate of six percent.

Sec. 72. Minnesota Statutes 2004, section 422A.22, subdivision 3, is amended to read:

Subd. 3. [LIMITATION ON ELIGIBILITY.] No employee of the city shall ~~be~~ is eligible to be a member of, or receive benefits from, more than one retirement plan or fund of the city for the same period of service.

Sec. 73. Minnesota Statutes 2004, section 422A.22, subdivision 4, is amended to read:

Subd. 4. [DEATH-WHILE-ACTIVE REFUND.] (a) Upon the death of an active member ~~prior to before the employee's termination of active service, there shall be paid to the beneficiary or beneficiaries designated by the member on a form specified by the executive director and filed with the retirement board, are entitled to receive the net accumulated employee deductions from salary, pay, or compensation, including interest under subdivision 1, paragraph (a), compounded annually to the date of the member's death. The amount must not include any contributions made by the employee or on the employee's behalf, or any interest or investment earnings on those contributions, which were allocated to the survivor benefit fund under section 422A.06, subdivision 6.~~

(b) If the employee fails to make a designation, or if the beneficiary or beneficiaries designated by the employee predeceases the employee, ~~the benefit specified in paragraph (a) must be paid to the deceased employee's estate~~ is entitled to the benefit specified in paragraph (a).

(c) A benefit payable under this subdivision is in addition to any applicable survivor benefit under section 422A.23.

Sec. 74. Minnesota Statutes 2004, section 422A.22, subdivision 6, is amended to read:

Subd. 6. [REFUND; MUNICIPAL EMPLOYEES RETIREMENT FUND.] ~~Any A~~ Any A person who has received a refund from the ~~municipal~~ Municipal Minneapolis Employees Retirement Fund, and who is a member of a public retirement system included in section 422A.16, subdivision 8, may repay such refund with interest at a compound annual rate of 8.5 percent to the ~~municipal~~ Municipal Minneapolis Employees Retirement Fund. If a refund is repaid to the fund and ~~if more than one refund has been received from the fund, all refunds must be repaid. Repayment shall~~ must be made as provided in ~~sections 422A.01 to 422A.25~~ this chapter.

Sec. 75. Minnesota Statutes 2004, section 422A.231, is amended to read:

422A.231 [COST ALLOCATION.]

(a) Notwithstanding any law to the contrary, all current and future contribution requirements due to this article are payable by the participating contributing employing units other than the state of Minnesota.

(b) In each actuarial valuation of the retirement fund, the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214 shall include an exhibit on the impact of the benefit increases contained in this article on the survivor benefit fund. The actuary shall calculate the expected change in the present value of the future benefits payable from the survivor benefit fund attributable to this article, using the actuarial method and assumptions applicable to the Minneapolis Employees Retirement Fund, from the prior actuarial valuation and shall compare that result with the actual change in the present value of future benefits payable from the survivor benefit fund attributable to this article from the prior actuarial valuation.

(c) The executive director shall assess each participating employer, other than the state of Minnesota, its proportional share of the net increase amount calculated under paragraph (b). The assessment must be made on the first business day of the following February, plus compound interest at an annual rate of six percent on the amount from the actuarial valuation date to the date of payment.

Sec. 76. Minnesota Statutes 2004, section 422A.24, is amended to read:

422A.24 [ALLOWANCES NOT ASSIGNABLE OR SUBJECT TO PROCESS.]

~~No money payable pursuant to this chapter shall be assignable either in law or equity or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111, nor shall any of the proceeds of payments due pursuant to this chapter be subject to the inheritance tax provisions of this state upon transfer to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. The provisions of section 356.401 apply to the Minneapolis employees retirement plan.~~

Sec. 77. Minnesota Statutes 2004, section 423B.17, is amended to read:

423B.17 [PAYMENTS EXEMPT FROM PROCESS.]

~~A payment made by the association under a provision of sections 423B.01 to 423B.18, as amended, is exempt from legal process except as provided in section 518.58, 518.581, or 518.6111. No person entitled to a payment may assign the same. The association may not recognize an assignment or pay a sum on account of an assignment. The provisions of section 356.401 apply to the Minneapolis Police Relief Association.~~

Sec. 78. Minnesota Statutes 2004, section 423C.09, is amended to read:

423C.09 [PAYMENTS EXEMPT FROM PROCESS.]

~~All payments made, or to be made, by the association under this chapter shall be totally exempt from garnishment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518.6111. No person entitled to a payment shall have the right to assign the name, nor shall the association have authority to recognize any assignment or to pay any sum on account thereof. Any attempt to transfer any right or claim, or any part thereof, shall be void. The provisions of section 356.401 apply to the Minneapolis Firefighters Relief Association.~~

Sec. 79. Minnesota Statutes 2004, section 490.126, subdivision 5, is amended to read:

Subd. 5. [EXEMPTION FROM PROCESS; NO ASSIGNMENT.] ~~None of the money, annuities, or other benefits provided in this chapter is assignable either in law or equity or is subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111. The provisions of section 356.401 apply to the judges retirement plan.~~

Sec. 80. [REVISOR'S INSTRUCTION.]

In the next edition and subsequent editions of Minnesota Statutes, the revisor of statutes shall replace the reference to "sections 422A.01 to 422A.25" with the reference to "this chapter" wherever the reference appears in Minnesota Statutes, chapter 422A.

## Sec. 81. [REPEALER.]

(a) Minnesota Statutes 2004, section 352.119, subdivision 1, is repealed.

(b) Minnesota Statutes 2004, sections 353.34, subdivision 3b; 353.36, subdivisions 2, 2a, 2b, and 2c; 353.46, subdivision 4; 353.663; 353.74; and 353.75, are repealed.

(c) Minnesota Statutes 2004, section 354.59, is repealed.

(d) Minnesota Statutes 2004, sections 422A.22, subdivisions 2 and 5; and 422A.221, are repealed.

(e) Minnesota Statutes 2004, sections 352.15, subdivision 1a; 353.15, subdivision 2; and 354.10, subdivision 2, are repealed.

## Sec. 82. [EFFECTIVE DATE.]

(a) Sections 1 to 73 and 75 to 81 are effective July 1, 2005.

(b) Section 74 is effective January 1, 2006.

(c) Sections 1, 21, 22, 23, 29, 45, 46, 53, 64, 76, 77, 78, 79, and 81, paragraph (e), do not apply to any cause of action that is proceeding on the date of enactment or to any cause of action for which the applicable statute of limitations has not expired as of the date of enactment.

## ARTICLE 13

## LOCAL RETIREMENT PLANS

Section 1. Minnesota Statutes 2004, section 356.215, subdivision 8, is amended to read:

Subd. 8. [INTEREST AND SALARY ASSUMPTIONS.] (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

| plan   | preretirement<br>interest rate<br>assumption | postretirement<br>interest rate<br>assumption |
|--|--|---|
| general state employees<br>retirement plan               | 8.5%   | 6.0%  |
| correctional state employees<br>retirement plan          | 8.5  | 6.0   |
| State Patrol retirement plan                             | 8.5  | 6.0   |
| legislators retirement plan                              | 8.5  | 6.0   |
| elective state officers<br>retirement plan               | 8.5  | 6.0   |
| judges retirement plan                                   | 8.5  | 6.0   |
| general public employees<br>retirement plan              | 8.5  | 6.0   |
| public employees police and fire<br>retirement plan      | 8.5  | 6.0   |
| local government correctional<br>service retirement plan | 8.5  | 6.0   |
| teachers retirement plan                                 | 8.5  | 6.0   |
| Minneapolis employees<br>retirement plan                 | 6.0  | 5.0   |
| Duluth teachers retirement plan                          | 8.5  | 8.5   |
| Minneapolis teachers retirement<br>plan                  | 8.5  | 8.5   |
| St. Paul teachers retirement                             |  |   |

|  |            |            |
|--|------------|------------|
| plan   | 8.5        | 8.5        |
| Minneapolis Police Relief Association                            | 6.0        | 6.0        |
| Fairmont Police Relief Association                               | 5.0        | 5.0        |
| Minneapolis Fire Department Relief Association                   | 6.0        | 6.0        |
| Virginia Fire Department Relief Association                      | 5.0        | 5.0        |
| <u>Bloomington Fire Department Relief Association</u>            | <u>6.0</u> | <u>6.0</u> |
| local monthly benefit volunteer firefighters relief associations | 5.0        | 5.0        |

(b) The actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

|   |                                   |
|---|-----------------------------------|
| plan  | future salary increase assumption |
| legislators retirement plan                           | 5.0%                              |
| elective state officers retirement plan               | 5.0                               |
| judges retirement plan                                | 5.0                               |
| Minneapolis Police Relief Association                 | 4.0                               |
| Fairmont Police Relief Association                    | 3.5                               |
| Minneapolis Fire Department Relief Association        | 4.0                               |
| Virginia Fire Department Relief Association           | 3.5                               |
| <u>Bloomington Fire Department Relief Association</u> | <u>4.0</u>                        |

(2) modified single rate future salary increase assumption

|                                       |  |
|---------------------------------------|--|
| plan                                  | future salary increase assumption  |
| Minneapolis employees retirement plan | the prior calendar year amount increased first by 1.0198 percent to prior fiscal year date and then increased by 4.0 percent annually for each future year |

(3) select and ultimate future salary increase assumption or graded rate future salary increase assumption

|  |                                     |
|--|-------------------------------------|
| plan   | future salary increase assumption   |
| general state employees retirement plan      | select calculation and assumption A |
| correctional state employees retirement plan | assumption H                        |

|   |                                     |
|---|-------------------------------------|
| State Patrol retirement plan                          | assumption H                        |
| general public employees retirement plan              | select calculation and assumption B |
| public employees police and fire fund retirement plan | assumption C                        |
| local government correctional service retirement plan | assumption H                        |
| teachers retirement plan                              | assumption D                        |
| Duluth teachers retirement plan                       | assumption E                        |
| Minneapolis teachers retirement plan                  | assumption F                        |
| St. Paul teachers retirement plan                     | assumption G                        |

The select calculation is: during the ten-year select period, a designated percent is multiplied by the result of ten minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. The designated percent is 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, the public employees police and fire plan, and the local government correctional service plan; 0.3 percent for the general state employees retirement plan, the general public employees retirement plan, the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association; and 0.4 percent for the Minneapolis Teachers Retirement Fund Association.

The ultimate future salary increase assumption is:

| age | A     | B     | C      | D     | E     | F     | G     | H      |
|-----|-------|-------|--------|-------|-------|-------|-------|--------|
| 16  | 6.95% | 6.95% | 11.50% | 8.20% | 8.00% | 6.50% | 6.90% | 7.7500 |
| 17  | 6.90  | 6.90  | 11.50  | 8.15  | 8.00  | 6.50  | 6.90  | 7.7500 |
| 18  | 6.85  | 6.85  | 11.50  | 8.10  | 8.00  | 6.50  | 6.90  | 7.7500 |
| 19  | 6.80  | 6.80  | 11.50  | 8.05  | 8.00  | 6.50  | 6.90  | 7.7500 |
| 20  | 6.75  | 6.40  | 11.50  | 6.00  | 6.90  | 6.50  | 6.90  | 7.7500 |
| 21  | 6.75  | 6.40  | 11.50  | 6.00  | 6.90  | 6.50  | 6.90  | 7.1454 |
| 22  | 6.75  | 6.40  | 11.00  | 6.00  | 6.90  | 6.50  | 6.90  | 7.0725 |
| 23  | 6.75  | 6.40  | 10.50  | 6.00  | 6.85  | 6.50  | 6.85  | 7.0544 |
| 24  | 6.75  | 6.40  | 10.00  | 6.00  | 6.80  | 6.50  | 6.80  | 7.0363 |
| 25  | 6.75  | 6.40  | 9.50   | 6.00  | 6.75  | 6.50  | 6.75  | 7.0000 |
| 26  | 6.75  | 6.36  | 9.20   | 6.00  | 6.70  | 6.50  | 6.70  | 7.0000 |
| 27  | 6.75  | 6.32  | 8.90   | 6.00  | 6.65  | 6.50  | 6.65  | 7.0000 |
| 28  | 6.75  | 6.28  | 8.60   | 6.00  | 6.60  | 6.50  | 6.60  | 7.0000 |
| 29  | 6.75  | 6.24  | 8.30   | 6.00  | 6.55  | 6.50  | 6.55  | 7.0000 |
| 30  | 6.75  | 6.20  | 8.00   | 6.00  | 6.50  | 6.50  | 6.50  | 7.0000 |
| 31  | 6.75  | 6.16  | 7.80   | 6.00  | 6.45  | 6.50  | 6.45  | 7.0000 |
| 32  | 6.75  | 6.12  | 7.60   | 6.00  | 6.40  | 6.50  | 6.40  | 7.0000 |
| 33  | 6.75  | 6.08  | 7.40   | 6.00  | 6.35  | 6.50  | 6.35  | 7.0000 |
| 34  | 6.75  | 6.04  | 7.20   | 6.00  | 6.30  | 6.50  | 6.30  | 7.0000 |
| 35  | 6.75  | 6.00  | 7.00   | 6.00  | 6.25  | 6.50  | 6.25  | 7.0000 |
| 36  | 6.75  | 5.96  | 6.80   | 6.00  | 6.20  | 6.50  | 6.20  | 6.9019 |
| 37  | 6.75  | 5.92  | 6.60   | 6.00  | 6.15  | 6.50  | 6.15  | 6.8074 |
| 38  | 6.75  | 5.88  | 6.40   | 5.90  | 6.10  | 6.50  | 6.10  | 6.7125 |



|    |      |      |      |      |      |      |      |        |
|----|------|------|------|------|------|------|------|--------|
| 39 | 6.75 | 5.84 | 6.20 | 5.80 | 6.05 | 6.50 | 6.05 | 6.6054 |
| 40 | 6.75 | 5.80 | 6.00 | 5.70 | 6.00 | 6.50 | 6.00 | 6.5000 |
| 41 | 6.75 | 5.76 | 5.90 | 5.60 | 5.90 | 6.50 | 5.95 | 6.3540 |
| 42 | 6.75 | 5.72 | 5.80 | 5.50 | 5.80 | 6.50 | 5.90 | 6.2087 |
| 43 | 6.65 | 5.68 | 5.70 | 5.40 | 5.70 | 6.50 | 5.85 | 6.0622 |
| 44 | 6.55 | 5.64 | 5.60 | 5.30 | 5.60 | 6.50 | 5.80 | 5.9048 |
| 45 | 6.45 | 5.60 | 5.50 | 5.20 | 5.50 | 6.50 | 5.75 | 5.7500 |
| 46 | 6.35 | 5.56 | 5.45 | 5.10 | 5.40 | 6.40 | 5.70 | 5.6940 |
| 47 | 6.25 | 5.52 | 5.40 | 5.00 | 5.30 | 6.30 | 5.65 | 5.6375 |
| 48 | 6.15 | 5.48 | 5.35 | 5.00 | 5.20 | 6.20 | 5.60 | 5.5822 |
| 49 | 6.05 | 5.44 | 5.30 | 5.00 | 5.10 | 6.10 | 5.55 | 5.5404 |
| 50 | 5.95 | 5.40 | 5.25 | 5.00 | 5.00 | 6.00 | 5.50 | 5.5000 |
| 51 | 5.85 | 5.36 | 5.25 | 5.00 | 5.00 | 5.90 | 5.45 | 5.4384 |
| 52 | 5.75 | 5.32 | 5.25 | 5.00 | 5.00 | 5.80 | 5.40 | 5.3776 |
| 53 | 5.65 | 5.28 | 5.25 | 5.00 | 5.00 | 5.70 | 5.35 | 5.3167 |
| 54 | 5.55 | 5.24 | 5.25 | 5.00 | 5.00 | 5.60 | 5.30 | 5.2826 |
| 55 | 5.45 | 5.20 | 5.25 | 5.00 | 5.00 | 5.50 | 5.25 | 5.2500 |
| 56 | 5.35 | 5.16 | 5.25 | 5.00 | 5.00 | 5.40 | 5.20 | 5.2500 |
| 57 | 5.25 | 5.12 | 5.25 | 5.00 | 5.00 | 5.30 | 5.15 | 5.2500 |
| 58 | 5.25 | 5.08 | 5.25 | 5.10 | 5.00 | 5.20 | 5.10 | 5.2500 |
| 59 | 5.25 | 5.04 | 5.25 | 5.20 | 5.00 | 5.10 | 5.05 | 5.2500 |
| 60 | 5.25 | 5.00 | 5.25 | 5.30 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 61 | 5.25 | 5.00 | 5.25 | 5.40 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 62 | 5.25 | 5.00 | 5.25 | 5.50 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 63 | 5.25 | 5.00 | 5.25 | 5.60 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 64 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 65 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 66 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 67 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 68 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 69 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 70 | 5.25 | 5.00 | 5.25 | 5.70 | 5.00 | 5.00 | 5.00 | 5.2500 |
| 71 | 5.25 | 5.00 |      | 5.70 |      |      |      |        |

(c) The actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

| plan  | payroll growth assumption |
|---|---------------------------|
| general state employees retirement plan               | 5.00%                     |
| correctional state employees retirement plan          | 5.00                      |
| State Patrol retirement plan                          | 5.00                      |
| legislators retirement plan                           | 5.00                      |
| elective state officers retirement plan               | 5.00                      |
| judges retirement plan                                | 5.00                      |
| general public employees retirement plan              | 6.00                      |
| public employees police and fire retirement plan      | 6.00                      |
| local government correctional service retirement plan | 6.00                      |
| teachers retirement plan                              | 5.00                      |
| Duluth teachers retirement plan                       | 5.00                      |
| Minneapolis teachers retirement plan                  | 5.00                      |
| St. Paul teachers retirement plan                     | 5.00                      |

Sec. 2. Minnesota Statutes 2004, section 356.216, is amended to read:

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

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

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

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution, except that if the actuarial report for the Bloomington Fire Department Relief Association indicates an unfunded actuarial accrued liability, the unfunded obligation is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later, and if subsequent actuarial valuations for the Bloomington Fire Department Relief Association determine a net actuarial experience loss incurred during the year which ended as of the day before the most recent actuarial valuation date, any unfunded liability due to that loss is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later;

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

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

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

- (i) For active members
  1. Retirement benefits
  2. Disability benefits
  3. Refund liability due to death or withdrawal
  4. Survivors' benefits
    - (ii) For deferred annuitants' benefits
    - (iii) For former members without vested rights
    - (iv) For annuitants
      1. Retirement annuities
      2. Disability annuities
      3. Surviving spouses' annuities
      4. Surviving children's annuities

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

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

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

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

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

Sec. 3. [AURORA, BIWABIK CITY, HOYT LAKES, AND PALO VOLUNTEER FIREFIGHTER RELIEF ASSOCIATIONS; CONSOLIDATION.]

(a) This section applies to consolidation of any combination of two or more of the following volunteer firefighter relief associations: Aurora, Biwabik City, Hoyt Lakes, and Palo.

(b) Notwithstanding Minnesota Statutes, section 424B.10, subdivision 1, paragraph (a), the service pension to be paid by the relief association existing after the consolidation is as follows:

(1) for the service rendered by each individual volunteer firefighter before the effective date of the consolidation, the service pension amount is the amount payable to that volunteer firefighter under the articles of incorporation or bylaws of the consolidating volunteer firefighters relief association that the firefighter was a member of immediately before the consolidation;

(2) for the service rendered after the effective date of the consolidation, the service pension amount is the highest dollar amount service pension of any of the consolidating volunteer firefighters relief associations under the articles of incorporation or bylaws in effect immediately before the consolidation; and

(3) after consolidation, increases in the amounts established in clauses (1) and (2) may be implemented if consistent with applicable requirements of Minnesota Statutes, chapters 69 and 424A.

Sec. 4. [EVELETH RETIRED POLICE AND FIRE TRUST FUND; AD HOC POSTRETIREMENT ADJUSTMENT.]

(a) In addition to the current pensions and other retirement benefits payable, the pensions and retirement benefits payable to retired police officers and firefighters and their surviving spouses by the Eveleth police and fire trust fund are increased by \$100 per month. Increases are retroactive from January 1, 2005.

(b) Following the January 1, 2005, effective date of the benefit increase provided under paragraph (a), every two years thereafter, to be effective no earlier than the applicable January 1, the city council of the city of Eveleth is authorized to provide permanent, uniform benefit increases, not less than \$10 per month nor to exceed \$100 per month, to any remaining retirees and survivors receiving benefits from the Eveleth police and fire trust fund. Any given benefit improvement under this paragraph is not effective unless the city council passes a resolution approving the increase.

(c) Within 30 days following the approval of a resolution under paragraph (b), the chief administrative officer of the city of Eveleth shall file a copy of the resolution with the executive director of the Legislative Commission on Pensions and Retirement, with the chair of the house Governmental Operations and Veterans Affairs Committee, and with the chair of the senate State and Local Government Operations Committee. Along with a copy of the resolution, the city's chief administrative officer must send a statement indicating the age of each benefit recipient and the retirement benefit or survivor benefit being received before and after the benefit increase.

Sec. 5. [MAPLEWOOD AND OAKDALE VOLUNTEER FIREFIGHTER RELIEF ASSOCIATIONS; TRANSFER OF ASSETS.]

Notwithstanding any limitations in Minnesota Statutes, section 424A.02, subdivision 13, or any other provision of law to the contrary, if an agreement between the affected relief associations and cities is reached as provided in this section, the Maplewood Firefighters Relief Association may transfer assets from its special fund to the Oakdale Fire Department Relief Association representing the value of the accumulated service credit for the current members of the Oakdale Fire Department Relief Association who are currently eligible to receive a combined service pension for firefighter service in both associations. The transfer of the assets from the Maplewood Firefighters Relief Association to the Oakdale Fire Department Relief Association must be in an amount representing the cumulative value of the service credit earned by the members of the Oakdale Fire Department Relief Association who are currently eligible to receive a combined service pension for firefighting service in both associations for the service credit that they accrued while working for the Maplewood Fire Department. The amount of the assets, liabilities, and service credit to be transferred must be specified in a joint agreement negotiated by the secretaries of the two relief associations and ratified by the boards of trustees of both relief associations and of the cities of Maplewood and Oakdale. The agreement must specify by name or other appropriate means the firefighters affected by the liability, asset, and service credit transfer. The ratification must be expressed in the form of resolutions adopted by each entity. The agreements must specify the amount of assets to be transferred, the amount of liabilities to be transferred, and the amount of service credit each of the applicable individuals will receive in the Oakdale Fire Department Relief Association. Upon the ratification of the agreement by both relief associations and both cities, the assets, liabilities, and service credit of the applicable individuals must be transferred to the Oakdale Fire Department Relief Association, and the Maplewood Firefighters Relief Association is relieved of any obligation to the individuals. A certified copy of the ratified agreement must be filed with the state auditor and with the secretary of state.

Sec. 6. [EFFECTIVE DATE; LOCAL APPROVAL.]

(a) Sections 1 and 2 are effective the day after the date of the approval by the city council of the city of Bloomington and upon timely completion by the chief clerical officer of the city of Bloomington of compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Section 3 is effective the day after the date on which the city council of the city of Eveleth and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(c) Section 4 is effective with respect to a volunteer firefighters relief association listed in column A the day after the governing body of the municipality listed in column B and its chief clerical officer timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

| <u>A</u>          | <u>B</u>                  |
|-------------------|---------------------------|
| <u>Aurora</u>     | <u>city of Aurora</u>     |
| <u>Biwabik</u>    | <u>city of Biwabik</u>    |
| <u>Hoyt Lakes</u> | <u>city of Hoyt Lakes</u> |
| <u>Palo</u>       | <u>town of White</u>      |

(d) Section 5 is effective the day after the governing body of the city of Maplewood, the governing body of the city of Oakdale, the Maplewood chief clerical officer, and the Oakdale chief clerical officer complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Delete the title and insert:

"A bill for an act relating to retirement; various public pension plans; clarifying and revising various plan provisions; eliminating obsolete provisions; defining final average salary; modifying the definition of allowable service to include time on strike; permitting judges to purchase service credit for an authorized leave; requiring specified payments; clarifying references to actuarial services in determining actuarial equivalence; defining covered salary to include certain employer contributions to supplemental retirement plans; specifying itemized detail of plan administrative expenses in annual financial reporting; excluding police officers of the University of Minnesota

from the public employees police and fire fund; clarifying collection procedures relating to charter schools; adding a uniform nonassignment and legal process exemption provision; adding employees of Bridges Medical Services, Hutchinson Area Health Care, and Northfield Hospital to privatization coverage; extending date for filing special law approval with the secretary of state for the RenVilla Nursing Home; requiring the privatization periodic filing of updated copies of articles of incorporation and bylaws; modifying a higher education individual retirement account plan investment option provision; implementing the recommendations of the Volunteer Firefighter Relief Association working group of the state auditor; modifying the trigger date for filing financial reports; revising the per firefighter financing requirements for monthly benefit service pensions; modifying the options for crediting interest on deferred service pensions; clarifying the deferred service pension options available to defined contribution plans; providing for the crediting of service during military service leaves; requiring the amortization of experience losses; clarifying the compliance requirements for the qualification for fire state aid; modifying a limit on mutual fund investments; clarifying corporate stock and exchange-traded funds investment authority; modifying the municipal representation requirements on relief association governing boards; clarifying exemptions from process and taxation; providing that certain laws do not apply to the consolidation of specified volunteer firefighter relief associations; providing an ad hoc postretirement adjustment to Eveleth police and fire trust fund benefit recipients; authorizing the Maplewood Firefighters Relief Association to transfer assets to the Oakdale Firefighters Relief Association to cover service credits earned by certain individuals; appropriating money; amending Minnesota Statutes 2004, sections 3A.01, subdivisions 1, 2, 6, 8, by adding subdivisions; 3A.011; 3A.02, subdivisions 1, 1b, 3, 4, 5; 3A.03, subdivisions 1, 2; 3A.04, subdivisions 1, 2, 3, 4, by adding a subdivision; 3A.05; 3A.07; 3A.10, subdivision 1; 3A.12; 3A.13; 69.011, subdivision 2b, by adding a subdivision; 69.021, subdivisions 5, 11; 69.051, subdivisions 1, 1a; 69.33; 69.771; 69.772, subdivisions 3, 4; 69.773, subdivisions 4, 5; 69.775; 352.01, subdivisions 2a, 4, 5, 12, 21, 23, by adding a subdivision; 352.021, subdivisions 1, 2, 3, 4; 352.04, subdivisions 1, 12; 352.041, subdivisions 1, 2, 3, 5; 352.115, subdivisions 2, 3; 352.15, subdivisions 1, 3, 4; 352.22, subdivision 10; 352.87, subdivision 3; 352.91, by adding a subdivision; 352.93, subdivision 1; 352B.01, subdivisions 1, 2, 3; 352B.02, subdivision 1e; 352B.071; 352C.021, by adding a subdivision; 352C.091, subdivision 1; 352D.01; 352D.015, subdivisions 3, 4; 352D.03; 352D.05, subdivision 4; 352D.085, subdivision 1; 352D.09, subdivision 5; 352D.12; 353.01, subdivisions 6, 10, 14, 32, 33, by adding a subdivision; 353.025; 353.026; 353.027; 353.028; 353.14; 353.15, subdivisions 1, 3; 353.27, subdivision 11; 353.271; 353.28, subdivisions 5, 6; 353.29, subdivision 3; 353.31, subdivision 1c; 353.32, subdivision 9; 353.33, subdivisions 3, 12; 353.64, by adding a subdivision; 353.651, subdivision 3; 353.656, subdivision 1; 353F.02, subdivision 4; 354.05, subdivision 7, by adding a subdivision; 354.091; 354.10, subdivisions 1, 3, 4; 354.33, subdivision 5; 354.39; 354.41, subdivision 2; 354.42, by adding a subdivision; 354.44, subdivisions 2, 6; 354A.011, subdivision 3a, by adding a subdivision; 354A.021, subdivision 5, by adding a subdivision; 354A.097, subdivision 1; 354A.31, subdivisions 4, 4a, 5; 354B.25, subdivision 2; 356.20, subdivision 4; 356.215, subdivision 8; 356.216; 356.24, subdivision 1; 356.551; 356A.06, subdivision 7; 422A.01, subdivisions 6, 11, by adding a subdivision; 422A.06, subdivision 7; 422A.10, subdivisions 1, 2; 422A.15, subdivision 1; 422A.16, subdivision 9; 422A.22, subdivisions 1, 3, 4, 6; 422A.231; 422A.24; 423B.17; 423C.09; 424A.02, subdivisions 3, 4, 7; 424A.04, subdivision 1; 424B.10, subdivision 1; 490.121, subdivisions 1, 4, 6, 7, 13, 14, 15, 20, 21, 22, by adding subdivisions; 490.122; 490.123, subdivisions 1, 1a, 1b, 1c, 2, 3; 490.124, subdivisions 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13; 490.125, subdivision 1; 490.126; 490.133; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4, as amended; Laws 2004, chapter 267, article 12, section 4; proposing coding for new law in Minnesota Statutes, chapters 352C; 356; 424A; proposing coding for new law as Minnesota Statutes, chapter 490A; repealing Minnesota Statutes 2004, sections 3A.01, subdivisions 3, 4, 6a, 7; 3A.02, subdivision 2; 3A.04, subdivision 1; 3A.09; 352.119, subdivision 1; 352.15, subdivision 1a; 352C.01; 352C.011; 352C.021; 352C.031, subdivision 3; 352C.033; 352C.04; 352C.051; 352C.09; 352C.091, subdivisions 2, 3; 353.15, subdivision 2; 353.29, subdivision 2; 353.34, subdivision 3b; 353.36, subdivisions 2, 2a, 2b, 2c; 353.46, subdivision 4; 353.651, subdivision 2; 353.663; 353.74; 353.75; 354.10, subdivision 2; 354.59; 422A.22, subdivisions 2, 5; 422A.221; 490.021; 490.025, subdivisions 1, 2, 3, 4, 6; 490.101; 490.102; 490.103; 490.105; 490.106; 490.107; 490.108; 490.109; 490.1091; 490.12; 490.121, subdivisions 2, 3, 5, 8, 9, 10, 11, 12, 16, 17, 18, 19, 20."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Senator Cohen from the Committee on Finance, to which was re-referred**

**S.F. No. 1368:** A bill for an act relating to energy; providing for expedited cost recovery for certain transmission investments; authorizing and regulating transmission companies; permitting the transfer of transmission assets and operation to transmission companies; providing for expedited regulatory approval of transmission projects related to renewable generation; providing new criteria to analyze the need for transmission projects; establishing the framework for a wind energy tariff related to community development; requiring a wind integration study; transferring generation plant siting and transmission line routing authority from the Minnesota Environmental Quality Board to the Public Utilities Commission; providing for technical corrections to the energy assistance program; providing for a sustainably managed woody biomass generation project to satisfy the biomass mandate; providing for an electronic mail filing system at the Public Utilities Commission and Department of Commerce; making changes to the conservation investment program recommended by the legislative auditor; authorizing the creation of energy quality zones; regulating eligibility of biogas projects for the renewable energy production incentive; providing for the recovery of certain infrastructure investments by gas utilities; requiring a study of compensation of landowners for transmission easements; providing for a geothermal rebate program under the conservation investment program; promoting the use of soy-diesel; providing for the adjustment of power purchase agreements to account for production tax payments; promoting the use of hydrogen as an energy source; amending Minnesota Statutes 2004, sections 13.681, by adding a subdivision; 116C.52, subdivisions 2, 4; 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a subdivision; 116C.575, subdivision 5; 116C.577; 116C.58; 116C.61, subdivision 3; 116C.69, subdivisions 2, 2a; 119A.15, subdivision 5a; 216B.02, by adding a subdivision; 216B.16, subdivision 6d, by adding subdivisions; 216B.1645, subdivision 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2; 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision; 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 6, 7, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding a subdivision; 216B.79; 216C.052; 216C.09; 216C.41, subdivision 1; 462A.05, subdivisions 21, 23; proposing coding for new law in Minnesota Statutes, chapters 216B; 216C.

Reports the same back with the recommendation that the bill be amended as follows:

Page 38, line 20, delete "agree to" and insert "shall" and after "funding" insert "from nonstate sources"

Page 43, line 27, delete "commission" and insert "commissioner of commerce" and delete "to"

Page 43, line 28, delete "regulated utilities," and insert "of"

Page 43, line 31, after "proportionately" insert "to the amount assessed"

Page 43, lines 32 and 33, delete "municipal utility, electric cooperative association,"

Page 43, line 36, after "gross" insert "jurisdictional" and delete "retail"

Page 44, line 3, delete "commission" and insert "commissioner of commerce"

Page 44, line 4, after "documents" insert "filed with the Public Utilities Commission"

Page 44, line 8, after "system" insert "described in section 1"

Page 60, line 26, after the period, insert "The assessments are subject to the assessment caps specified in Minnesota Statutes, section 216C.052. Sums assessed under this section are appropriated to the commissioner of commerce for the purpose of this section."

Page 67, line 11, delete "APPROPRIATION" and insert "ALLOCATION"

Page 67, line 13, delete "appropriated" and insert "allocated"

Page 67, line 15, after "from" insert "available funds in"

Page 67, line 22, delete "up"

Page 67, line 23, delete "to" and delete everything after "grant" and insert "in three consecutive fiscal years"

Amend the title as follows:

Page 1, line 33, after the semicolon, insert "appropriating money;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

### **Senator Cohen from the Committee on Finance, to which was re-referred**

**S.F. No. 897:** A bill for an act relating to state lands; modifying landowner's bill of rights for sales to the state; modifying provisions for sale of internal improvement land; modifying land exchange provisions; appropriating money; amending Minnesota Statutes 2004, sections 84.0274, by adding subdivisions; 92.03, subdivision 4; 94.342, subdivisions 1, 3, 4, 5; 94.343, subdivisions 1, 3, 7, 8, 10, by adding subdivisions; 94.344, subdivisions 1, 3, 5, 8, 10, by adding a subdivision; 97A.135, subdivision 2a; 103F.535, subdivision 1; repealing Minnesota Statutes 2004, sections 94.343, subdivision 6; 94.344, subdivision 6; 94.348; 94.349.

Reports the same back with the recommendation that the bill be amended as follows:

Page 4, line 17, delete "such" and insert "the" and delete "as" and insert "directed by"

Page 4, line 18, delete "may direct"

Page 4, line 20, delete "such" and delete "as"

Page 4, line 21, after "they" insert "may"

And when so amended the bill do pass. Amendments adopted. Report adopted.

### **SECOND READING OF SENATE BILLS**

S.F. Nos. 314, 1462, 2093, 1509, 2042, 149, 1342, 1722, 1969, 1783, 1360, 196, 1733, 1846, 615, 1940, 2057, 2076, 1482, 664, 1029, 1483, 1663, 467, 1883, 427, 1368 and 897 were read the second time.

### **SECOND READING OF HOUSE BILLS**

H.F. Nos. 128, 742, 1480, 1922 and 369 were read the second time.

### **MOTIONS AND RESOLUTIONS**

Senator Anderson moved that the name of Senator Nienow be added as a co-author to S.F. No. 1029. The motion prevailed.

Senator Bachmann moved that the name of Senator Limmer be added as a co-author to S.F. No. 1236. The motion prevailed.

Senator Cohen moved that the name of Senator Pappas be added as a co-author to S.F. No. 2021. The motion prevailed.

Senator Kiscaden moved that S.F. No. 1204, No. 131 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

**Senator Wiger introduced--**

**Senate Resolution No. 87:** A Senate resolution congratulating Adam Michael Gentner of Oakdale, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

**Senator Johnson, D.E. introduced--**

**Senate Resolution No. 88:** A Senate resolution commemorating the veterans of Henderson-Lewis Post 545 for their dedicated service to the United States of America and the state of Minnesota on the occasion of the dedication of a new American Legion Building in Spicer, Minnesota.

Referred to the Committee on Rules and Administration.

**Senators Johnson, D.E. and Day introduced--**

**Senate Resolution No. 89:** A Senate resolution congratulating Twin Cities Public Television's *Almanac* for celebrating 20 years as one of the most successful local series in the history of public television in Minnesota and the United States.

Referred to the Committee on Rules and Administration.

**Senator Kelley introduced--**

**Senate Resolution No. 90:** A Senate resolution declaring Minnesota's own Take Our Daughters and Sons to Work Day 2005.

Referred to the Committee on Rules and Administration.

**Senator Marko introduced--**

**Senate Resolution No. 91:** A Senate resolution congratulating Nicholas Blau for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

**SPECIAL ORDERS**

Pursuant to Rule 26, Senator Rest, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

S.F. Nos. 1335, 493 and 767.

**SPECIAL ORDER**

**S.F. No. 1335:** A bill for an act relating to state government; regulating state construction contracts; amending Minnesota Statutes 2004, sections 16B.31, subdivision 1; 16B.33, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16C.

Senator Higgins moved to amend S.F. No. 1335 as follows:

Page 3, after line 32, insert:

"Sec. 3. Minnesota Statutes 2004, section 16C.26, subdivision 3, is amended to read:



Subd. 3. [PUBLICATION OF NOTICE; EXPENDITURES OVER \$15,000 \$25,000.] If the amount of an expenditure is estimated to exceed ~~\$15,000~~ \$25,000, sealed bids must be solicited by public notice ~~inserted at least once in a newspaper or trade journal not less than seven days before the final date of submitting bids in a manner designated by the commissioner. The commissioner shall designate the newspaper or trade journal for that publication and may designate different newspapers or journals according to the nature of the purchase or contract. To the extent practical, this must include posting on a state Web site. For expenditures over \$50,000, the commissioner shall also solicit sealed bids by sending providing notices by mail to all prospective bidders known to the commissioner and by posting notice on a public bulletin board in the commissioner's office a state Web site at least five seven days before the final date of submitting bids. All bids over \$50,000 must be sealed when they are received and must be opened in public at the hour stated in the notice. All original bids and all documents pertaining to the award of a contract must be retained and made a part of a permanent file or record and remain open to public inspection.~~

Sec. 4. Minnesota Statutes 2004, section 16C.26, subdivision 4, is amended to read:

Subd. 4. [BUILDING AND CONSTRUCTION CONTRACTS; ~~\$15,000~~ \$50,000 OR LESS.] ~~All contracts, the amount of which is estimated to be \$15,000 or less, may be made either upon competitive bids or in the open market, in the discretion of the commissioner. So far as practicable, however, they must be based on at least three competitive bids which must be permanently recorded. An informal bid may be used for building, construction, and repair contracts that are estimated at less than \$50,000. Informal bids must be authenticated by the bidder in a manner specified by the commissioner.~~

Sec. 5. Minnesota Statutes 2004, section 16C.28, subdivision 2, is amended to read:

Subd. 2. [ALTERATIONS AND ERASURES.] A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid must be rejected unless the alteration or erasure is corrected ~~under this subdivision~~ in a manner that is clear and authenticated by an authorized representative of the responder. An alteration or erasure may be crossed out and the correction printed in ink or typewritten adjacent to it and initialed ~~in ink by the person signing the bid~~ by an authorized representative of the responder."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend S.F. No. 1335 as follows:

Page 4, line 30, after "manager" insert "at risk"

Page 6, line 21, after "project" insert "or are major components of the means of construction"

Page 8, after line 2, insert:

"Subd. 3. [REPORT TO THE LEGISLATURE.] The commissioner shall report to the legislature by January 15, 2010, the number of projects and the total cost of those projects that were delivered under contracts authorized under subdivision 2 of this section."

Page 9, line 31, after "design-build" insert "design"

Page 10, line 8, after the period, insert "The criteria shall not consider the collective bargaining status of the design-builder."

Page 11, line 22, delete the first comma and insert "and"

Page 11, line 23, delete "including"

Page 11, line 24, after "law" insert ", and availability to and familiarity with the project locale;  
(3) the commissioner may include in the request for qualifications criteria a requirement that the

proposer include the overhead and fee that the design-builder proposes to charge for its construction services" and delete "(3)" and insert "(4)"

Page 13, line 20, after the comma, insert "availability to and familiarity with the project locale,"

Page 13, line 23, after the period, insert "The criteria shall not impose unnecessary conditions beyond reasonable requirements to ensure maximum participation of qualified contractors."

Page 13, line 36, after "of" insert "labor," and after "materials" insert a comma

Page 14, line 11, after "DESIGN-BUILD" insert "DESIGN"

Page 14, line 24, delete the second comma and insert "and"

Page 14, line 25, delete "including"

Page 16, line 25, after "DESIGN-BUILD" insert "DESIGN"

Page 18, after line 10, insert:

"(b) The commissioner may include in the request for qualifications criteria a requirement that the proposer include the overhead and fee that the construction manager at risk proposes to charge for its services."

Page 18, line 11, delete "(b)" and insert "(c)"

Page 18, delete lines 28 to 31

Page 18, line 32, delete "(6)" and insert "(5)"

Page 18, line 34, delete "(7)" and insert "(6)"

Page 18, line 35, delete "(8)" and insert "(7)"

Page 18, line 36, delete the second "and"

Page 19, line 1, delete "(9)" and insert "(8)"

Page 19, line 6, before the period, insert "; and

(9) criteria shall not impose unnecessary conditions beyond reasonable requirements to ensure maximum participation of construction managers at risk. The criteria shall not consider the collective bargaining status of the construction manager at risk"

Page 19, line 7, delete "(b)" and insert "(d)"

Page 19, line 28, after "including" insert ", but not limited to,"

Page 19, line 30, delete "including"

Page 19, line 31, after the comma, insert "availability to and familiarity with the project locale,"

Page 20, line 10, delete ", which request shall"

Page 20, delete lines 11 and 12

Page 20, line 13, delete everything before the semicolon

Page 20, line 22, before the period, insert "or in the case of the commissioner, section 16C.08 or 16C.095"

Page 21, line 4, delete everything after "(e)"

Page 21, delete lines 5 to 10

Page 21, line 11, delete everything before "The"

Page 21, line 21, after the comma, insert "availability to and familiarity with the project locale,"

Page 21, line 24, after the period, insert "The criteria shall not impose unnecessary conditions beyond reasonable requirements to ensure maximum participation of qualified contractors."

Page 21, line 25, delete everything after the comma

Page 21, line 26, delete everything before "the"

Page 21, line 27, delete the comma and delete everything after the period

Page 21, delete lines 28 to 36

Page 22, delete lines 1 to 3

Page 22, line 4, delete "(g)" and insert "(f)"

Page 22, line 11, delete "PRESELECTION PROCESS" and insert "REQUEST FOR QUALIFICATIONS"

Page 22, line 15, before the period, insert ", nor impose conditions beyond reasonable requirements to ensure maximum participation of all qualified contractors, and does not relate to the collective bargaining status of the contractor"

Page 22, line 17, after "commissioner" insert "that ensures open and unrestricted access for any potential responder"

Page 22, delete lines 21 to 23

Page 22, after line 32, insert:

"(c) The commissioner shall establish procedures to allow firms to submit qualifications at least annually to allow placement on the list of contractors qualified to enter into a master contract."

The motion prevailed. So the amendment was adopted.

S.F. No. 1335 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

|              |               |          |          |           |
|--------------|---------------|----------|----------|-----------|
| Anderson     | Gaither       | Kubly    | Neuville | Sams      |
| Bakk         | Gerlach       | Langseth | Nienow   | Saxhaug   |
| Belanger     | Hann          | Larson   | Olson    | Scheid    |
| Berglin      | Higgins       | LeClair  | Ortman   | Senjem    |
| Betzold      | Hottinger     | Limmer   | Ourada   | Skoe      |
| Chaudhary    | Johnson, D.E. | Lourey   | Pappas   | Skoglund  |
| Cohen        | Johnson, D.J. | Marko    | Pariseau | Sparks    |
| Day          | Jungbauer     | Marty    | Ranum    | Stumpf    |
| Dibble       | Kelley        | McGinn   | Reiter   | Tomassoni |
| Dille        | Kierlin       | Metzen   | Rest     | Vickerman |
| Fischbach    | Kiscaden      | Michel   | Robling  | Wergin    |
| Foley        | Kleis         | Moua     | Rosen    | Wiger     |
| Frederickson | Koering       | Murphy   | Ruud     |           |

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

**SPECIAL ORDER**

**S.F. No. 493:** A bill for an act relating to hospital districts; providing for board membership in the Yellow Medicine County Hospital District; amending Laws 1963, chapter 276, section 2, by adding a subdivision.

Senator Dibble moved to amend S.F. No. 493 as follows:

Page 1, line 17, delete "without" and insert "for good"

The motion prevailed. So the amendment was adopted.

S.F. No. 493 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 49 and nays 17, as follows:

Those who voted in the affirmative were:

|           |               |          |            |           |
|-----------|---------------|----------|------------|-----------|
| Anderson  | Foley         | Koering  | Neuville   | Scheid    |
| Bakk      | Frederickson  | Kubly    | Ortman     | Skoe      |
| Belanger  | Gaither       | Langseth | Ourada     | Skoglund  |
| Berglin   | Higgins       | Lourey   | Pappas     | Solon     |
| Betzold   | Hottinger     | Marko    | Pogemiller | Sparks    |
| Chaudhary | Johnson, D.E. | Marty    | Ranum      | Stumpf    |
| Cohen     | Johnson, D.J. | McGinn   | Rest       | Tomassoni |
| Day       | Kelley        | Metzen   | Robling    | Vickerman |
| Dibble    | Kierlin       | Moua     | Sams       | Wiger     |
| Dille     | Kiscaden      | Murphy   | Saxhaug    |           |

Those who voted in the negative were:

|           |         |          |        |        |
|-----------|---------|----------|--------|--------|
| Fischbach | Kleis   | Michel   | Reiter | Wergin |
| Gerlach   | Larson  | Nienow   | Rosen  |        |
| Hann      | LeClair | Olson    | Ruud   |        |
| Jungbauer | Limmer  | Pariseau | Senjem |        |

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

**SPECIAL ORDER**

**S.F. No. 767:** A bill for an act relating to corporations; recodifying and modernizing the law regulating the formation, structure, and operation of certain corporations; making miscellaneous technical and clarifying changes; amending Minnesota Statutes 2004, sections 47.12; 47.15; 47.16; 48.02; 48.03; 48.033; 48.04; 48.06; 48.07; 48A.01, subdivision 1; 48A.04, subdivisions 1, 3; 49.41; 50.001; 50.06; 50.085, subdivision 1; 51A.03, subdivision 2b; 51A.131; 51A.17; 51A.21, subdivision 1; 60A.07, subdivision 1, by adding subdivisions; 60A.075, subdivision 6; 60A.077, subdivision 6; 60B.23; 61A.14, by adding a subdivision; 61A.35; 61A.36; 61B.31; 66A.01; 66A.02; 66A.03; 66A.06; 66A.07; 66A.08, subdivision 1; 67A.06; 67A.40, subdivision 3; 117.232, subdivision 1; 161.433, subdivision 3; 181.970, subdivision 2; 237.81; 301.75; 302A.011, subdivision 4; 302A.021, subdivision 10, by adding a subdivision; 302A.031, by adding a subdivision; 303.02, subdivision 2; 317A.021, subdivision 9; 322B.02; 398A.04, subdivision 6; 453.55, subdivision 11; 453A.05, subdivision 11; proposing coding for new law in Minnesota Statutes, chapters 47; 48; 50; 66A; repealing Minnesota Statutes 2004, sections 48.056, subdivision 3; 60A.07, subdivision 8; 61A.32; 66A.04; 66A.05; 66A.075; 300.01; 300.02; 300.025; 300.05; 300.06; 300.08; 300.081; 300.083; 300.09; 300.12; 300.13; 300.131; 300.14; 300.16; 300.17; 300.18; 300.19; 300.20; 300.21; 300.22; 300.23; 300.24; 300.25; 300.26; 300.27; 300.28; 300.29; 300.30; 300.31; 300.32; 300.33; 300.34; 300.35; 300.36; 300.37; 300.38; 300.39; 300.40; 300.41; 300.42; 300.43; 300.44; 300.45; 300.451; 300.46; 300.49; 300.51; 300.52; 300.53; 300.54; 300.55; 300.57; 300.58; 300.59; 300.60; 300.61; 300.62; 300.63.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

|              |               |          |            |           |
|--------------|---------------|----------|------------|-----------|
| Anderson     | Gaither       | Langseth | Nienow     | Sams      |
| Bakk         | Gerlach       | Larson   | Olson      | Saxhaug   |
| Belanger     | Higgins       | LeClair  | Ortman     | Scheid    |
| Berglin      | Hottinger     | Limmer   | Ourada     | Senjem    |
| Betzold      | Johnson, D.E. | Lourey   | Pappas     | Skoe      |
| Chaudhary    | Johnson, D.J. | Marko    | Pariseau   | Skoglund  |
| Cohen        | Jungbauer     | Marty    | Pogemiller | Solon     |
| Day          | Kelley        | McGinn   | Ranum      | Sparks    |
| Dibble       | Kierlin       | Metzen   | Reiter     | Stumpf    |
| Dille        | Kiscaden      | Michel   | Rest       | Tomassoni |
| Fischbach    | Kleis         | Moua     | Robling    | Vickerman |
| Foley        | Koering       | Murphy   | Rosen      | Wergin    |
| Frederickson | Kubly         | Neuville | Ruud       | Wiger     |

So the bill passed and its title was agreed to.

#### **MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Fischbach moved that S.F. No. 1115, No. 87 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

S.F. No. 1116 and the Conference Committee Report thereon were reported to the Senate.

#### **CONFERENCE COMMITTEE REPORT ON S.F. NO. 1116**

A bill for an act relating to natural resources; requiring lifejackets for children aboard watercraft; amending Minnesota Statutes 2004, section 86B.501, by adding a subdivision.

April 4, 2005

The Honorable James P. Metzen  
President of the Senate

The Honorable Steve Sviggum  
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1116, 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. 1116 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 86B.501, is amended by adding a subdivision to read:

Subd. 3. [GRANT ALLEN LAW; LIFEJACKET REQUIRED FOR CHILDREN.] (a) No person may operate a watercraft under way with a child under ten years of age aboard unless the child is:

(1) wearing an appropriate personal flotation device approved under subdivision 1; or

(2) below the top deck or in an enclosed cabin.

(b) Paragraph (a) does not apply to commercial watercraft where the child is a passenger and the operator is licensed by the state of Minnesota or the United States Coast Guard to carry passengers for hire. Paragraph (a) also does not apply if the watercraft is anchored for the purpose of swimming or diving.

(c) A first violation of this subdivision prior to May 1, 2006, shall not result in a penalty, but is punishable only by a safety warning.

(d) Any violation other than a violation addressed in paragraph (c) is to be considered a petty misdemeanor.

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

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

Senate Conferees: (Signed) Satveer Chaudhary, Dennis R. Frederickson, John C. Hottinger

House Conferees: (Signed) Charlotte Samuelson, Tom Hackbarth, David Dill

Senator Chaudhary moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1116 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1116 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 40 and nays 26, as follows:

Those who voted in the affirmative were:

|           |               |          |            |           |
|-----------|---------------|----------|------------|-----------|
| Anderson  | Fischbach     | Kiscaden | Moua       | Saxhaug   |
| Belanger  | Foley         | Kleis    | Murphy     | Scheid    |
| Berglin   | Frederickson  | Kubly    | Neuville   | Senjem    |
| Betzold   | Higgins       | Langseth | Pappas     | Skoglund  |
| Chaudhary | Hottinger     | Lourey   | Pogemiller | Stumpf    |
| Cohen     | Johnson, D.E. | Marko    | Ranum      | Vickerman |
| Dibble    | Kelley        | Marty    | Rest       | Wergin    |
| Dille     | Kierlin       | McGinn   | Robling    | Wiger     |

Those who voted in the negative were:

|               |           |          |        |           |
|---------------|-----------|----------|--------|-----------|
| Bakk          | Jungbauer | Michel   | Reiter | Sparks    |
| Day           | Koering   | Nienow   | Rosen  | Tomassoni |
| Gaither       | Larson    | Olson    | Ruud   |           |
| Gerlach       | LeClair   | Ortman   | Sams   |           |
| Hann          | Limmer    | Ourada   | Skoe   |           |
| Johnson, D.J. | Metzen    | Pariseau | Solon  |           |

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Rosen moved that S.F. No. 2133 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Taxes. The motion prevailed.

Senator Rosen moved that S.F. No. 1189 be withdrawn from the Committee on Jobs, Energy and Community Development and re-referred to the Committee on Taxes. The motion prevailed.

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bills were read the first time and referred to the committees indicated.

**Senator Hottinger introduced--**

**S.F. No. 2238:** A bill for an act relating to health; requiring the commissioner of health to study the health impacts of pesticides on migrant agricultural workers; appropriating money.

Referred to the Committee on Health and Family Security.

**Senator Pogemiller introduced--**

**S.F. No. 2239:** A bill for an act relating to retirement; Minneapolis Teachers Retirement Fund Association and expanded list plans; clarifying mutual fund authority; revising investment authority to exclude below-investment grade bonds; amending Minnesota Statutes 2004, sections 354A.28, subdivision 5; 356A.06, subdivision 7.

Referred to the Committee on State and Local Government Operations.

**Senator Rosen introduced--**

**S.F. No. 2240:** A bill for an act relating to human services; providing a rate increase for nursing facilities in Martin and Faribault Counties; amending Minnesota Statutes 2004, section 256B.431, by adding a subdivision.

Referred to the Committee on Finance.

**Senator Kiscaden introduced--**

**S.F. No. 2241:** A bill for an act relating to health; requiring implementation of cost-containment initiatives; modifying requirements for health plan companies and health plans; requiring disclosure of information to consumers; establishing a cancer drug repository program; requiring reporting of acquired infections; modifying requirement for health-related boards and health care providers; establishing evidence-based guideline and health promotion initiatives; requiring studies; amending Minnesota Statutes 2004, sections 13.3806, by adding a subdivision; 45.0135, subdivision 7, by adding a subdivision; 62D.145, subdivision 2; 62E.05, subdivision 2; 62E.08, subdivision 1; 62J.43; 62L.08, subdivision 8; 62Q.17; 62Q.64; 62Q.75; 72A.201, subdivision 4; 144.335, subdivision 3a; 145A.12, by adding subdivisions; 151.214, subdivision 1; 295.582; proposing coding for new law in Minnesota Statutes, chapters 62J; 62M; 62Q; 65B; 144; 144E; 145; 151; 214; repealing Minnesota Statutes 2004, sections 62E.035; 62Q.095.

Referred to the Committee on Health and Family Security.

**Senator Solon introduced--**

**S.F. No. 2242:** A bill for an act relating to St. Louis County; authorizing the county board to convey an easement.

Referred to the Committee on State and Local Government Operations.

**Senator Murphy introduced--**

**S.F. No. 2243:** A bill for an act relating to taxation; limiting the exemption for pollution control equipment of an electric generation system; amending Minnesota Statutes 2004, section 272.02, subdivisions 10, 41.

Referred to the Committee on Taxes.

**Senator Dille introduced--**

**S.F. No. 2244:** A bill for an act relating to agriculture; establishing the Fertilizer Research Council; providing for a program of comprehensive research in soil fertility and fertilizer management; establishing a refundable fee on agricultural fertilizers; amending Minnesota Statutes 2004, section 18C.425, by adding a subdivision.

Referred to the Committee on Agriculture, Veterans and Gaming.

**Senators Tomassoni and Bakk introduced--**

**S.F. No. 2245:** A bill for an act relating to capital improvements; correcting an error in an appropriation for the Mesabi Trail; amending Laws 2005, chapter 20, article 1, section 7, subdivision 15.

Referred to the Committee on Finance.

**Senators Tomassoni and Bakk introduced--**

**S.F. No. 2246:** A bill for an act relating to the town of White and the city of Biwabik; authorizing general obligations of the town of White.

Referred to the Committee on Taxes.

**Senator Skoglund introduced--**

**S.F. No. 2247:** A bill for an act relating to retirement; Teachers Retirement Association and the individual retirement account plan; correcting a plan election problem; authorizing eligible Minnesota State Colleges and Universities system employees to elect Teachers Retirement Association coverage and receive retroactive coverage.

Referred to the Committee on State and Local Government Operations.

**Senator Skoglund introduced--**

**S.F. No. 2248:** A bill for an act relating to retirement; Teachers Retirement Association and the individual retirement account plan; correcting a plan election problem; authorizing eligible Minnesota State Colleges and Universities system employees to elect Teachers Retirement Association coverage and receive retroactive coverage.

Referred to the Committee on State and Local Government Operations.

**Senators Kleis and Fischbach introduced--**

**S.F. No. 2249:** A bill for an act relating to sales tax; allowing a sales tax exemption for construction of Rockville Fire Hall; amending Minnesota Statutes 2004, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

**Senator Pogemiller introduced--**

**S.F. No. 2250:** A bill for an act relating to retirement; Hennepin County Supplemental Retirement Program; authorizing the Minnesota State Retirement System to administer the program; amending Minnesota Statutes 2004, sections 383B.46, subdivision 2; 383B.47; 383B.48; 383B.49.

Referred to the Committee on State and Local Government Operations.



**Senator Bachmann introduced--**

**S.F. No. 2251:** A bill for an act relating to taxation; sales and use; retroactively clarifying the sales tax exemption for tree removal as part of land clearing contract; amending Minnesota Statutes 2004, sections 297A.61, subdivision 3; 297A.68, by adding a subdivision.

Referred to the Committee on Taxes.

**Senator Dibble introduced--**

**S.F. No. 2252:** A bill for an act relating to game and fish; prohibiting taking mourning doves; amending Minnesota Statutes 2004, sections 97A.015, subdivision 24; 97B.731, by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

**Senators Rosen and Marty introduced--**

**S.F. No. 2253:** A bill for an act relating to health; directing the commissioner of health to distribute grants for methamphetamine use prevention; appropriating money; amending Minnesota Statutes 2004, section 145A.14, by adding a subdivision.

Referred to the Committee on Health and Family Security.

**Senator Kubly introduced--**

**S.F. No. 2254:** A bill for an act relating to education; authorizing a fund transfer for Independent School District No. 2853, Lac qui Parle Valley.

Referred to the Committee on Finance.

**Senator Kubly introduced--**

**S.F. No. 2255:** A bill for an act relating to education; authorizing a fund transfer for Independent School District No. 2888, Clinton-Graceville-Beardsley.

Referred to the Committee on Finance.

**Senators Hottinger, Stumpf, Rest, Pappas and Kelley introduced--**

**S.F. No. 2256:** A bill for an act relating to education; providing increased funding for child care assistance, early childhood family education programs, general community education, adult basic education, special education, and the general education formula allowance; suspending and reducing certain fees relating to child care; imposing a temporary individual income tax surtax; providing grants; appropriating money; amending Minnesota Statutes 2004, sections 119B.09, subdivision 1; 119B.13, by adding a subdivision; 124D.135, subdivision 1; 124D.20, subdivision 3; 124D.52, subdivision 3; 124D.531, subdivisions 1, 4; 125A.76, subdivisions 1, 4; 125A.79, subdivisions 1, 6; 126C.10, subdivision 2; 245A.10, by adding a subdivision; 290.06, by adding a subdivision; repealing Laws 2003, First Special Session chapter 14, article 9, section 36.

Referred to the Committee on Finance.

**Senator Robling introduced--**

**S.F. No. 2257:** A bill for an act relating to highways; providing for interest paid on advances made by road authority to commissioner of transportation to expedite trunk highway construction; amending Minnesota Statutes 2004, section 161.361, subdivision 2.

Referred to the Committee on Finance.

### **MEMBERS EXCUSED**

Senator Bachmann was excused from the Session of today. Senators Dille, Moua and Pariseau were excused from the Session of today from 11:30 to 11:50 a.m. Senator Sams was excused from the Session of today from 11:30 a.m. to 12:05 p.m. Senators Pogemiller and Solon were excused from the Session of today from 11:30 a.m. to 12:10 p.m.

### **ADJOURNMENT**

Senator Johnson, D.E. moved that the Senate do now adjourn until 1:00 p.m., Tuesday, April 26, 2005. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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