

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-FIFTH LEGISLATURE

FORTY-SIXTH DAY

St. Paul, Minnesota, Thursday, April 12, 2007

The Senate met at 11:00 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. Kevin Anderson.

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

Anderson	Fischbach	Langseth	Olson, G.	Senjem
Bakk	Foley	Larson	Olson, M.	Sheran
Betzold	Frederickson	Latz	Pappas	Sieben
Bonoff	Gerlach	Limmer	Pariseau	Skoe
Carlson	Gimse	Lourey	Pogemiller	Skogen
Chaudhary	Hann	Lynch	Prettner Solon	Sparks
Clark	Higgins	Marty	Rest	Stumpf
Cohen	Ingebrigtsen	Metzen	Robling	Tomassoni
Day	Johnson	Michel	Rosen	Torres Ray
Dibble	Jungbauer	Moua	Rummel	Vandever
Dille	Koch	Murphy	Saltzman	Vickerman
Doll	Koering	Neuville	Saxhaug	Wergin
Erickson Ropes	Kubly	Olseen	Scheid	Wiger

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 that the House refuses to concur in the Senate amendments to House File No. 886:

H.F. No. 886: A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature with certain conditions; authorizing the sale of state bonds; appropriating money; amending Minnesota Statutes 2006, sections 16A.695, subdivisions 2, 3, by adding subdivisions; 16A.86, subdivision 3; 116R.01, subdivision 6; 116R.02, subdivisions 1, 2, 4, 5; 116R.03; 116R.05, subdivision 2; 116R.11,

subdivision 1; 116R.12, by adding a subdivision; 272.01, subdivision 2; 290.06, subdivision 24; 297A.71, subdivision 10; 360.013, subdivision 39; 360.032, subdivision 1; 360.038, subdivision 4; Laws 2005, chapter 20, article 1, sections 7, subdivision 21; 20, subdivision 3; 23, subdivisions 8, 16; Laws 2006, chapter 258, sections 4, subdivision 4; 7, subdivision 11; 21, subdivisions 6, 15; repealing Minnesota Statutes 2006, sections 116R.02, subdivisions 3, 6, 7, 9; 116R.16.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Hausman; Murphy, M.; Carlson; Pelowski and Tingelstad have been appointed as such committee on the part of the House.

House File No. 886 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 11, 2007

Senator Langseth moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 886, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 966:

H.F. No. 966: A bill for an act relating to labor; allowing the commissioner of labor and industry to issue orders of compliance relating to overtime for nurses; amending Minnesota Statutes 2006, sections 177.27, subdivision 4; 181.275, subdivision 1, by adding a subdivision.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Howes, Davnie and Fritz have been appointed as such committee on the part of the House.

House File No. 966 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 11, 2007

Senator Anderson moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 966, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 961: A bill for an act relating to natural resources; providing for regulation of shoreland resorts; amending Minnesota Statutes 2006, section 103F.205, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 103F.

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 2006, section 103F.205, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103F.201 to ~~103F.221~~ 103F.227.

Sec. 2. **[103F.227] SHORELAND DEVELOPMENT; EXISTING RESORTS.**

Subdivision 1. **Applicability.** This section applies statewide and preempts local ordinances that are inconsistent with its terms, but does not preempt local ordinances that provide additional protection of shoreland.

Subd. 2. **Resort defined.** For purposes of this section, "resort" means a shoreland commercial establishment, existing on or before August 1, 2007, that includes buildings, lodges, structures, dwelling units, camping or recreational vehicle sites, or enclosures, or any part thereof kept, used, maintained, or advertised as or held out to the public to be a place where sleeping accommodations are furnished to the public, primarily to persons seeking recreation, for periods of one day or longer, and having for rent three or more cabins, rooms, campsites, or enclosures. A shoreland commercial establishment must be primarily service oriented for transient lodging of guests. All cabins, rooms, dwelling units, camping or recreational vehicle sites, or enclosures must be included in the resort rental business. Resorts must not allow residential use of a dwelling unit or site, except dwellings used as residences for the service providers. To qualify as a resort under this section, a resort must be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

Subd. 3. **Maintenance and replacement.** (a) So long as the establishment continues to operate as a resort, a county or municipality must allow a resort owner to:

(1) maintain structures, including the replacement of aging or outdated components or systems of the structure, while not increasing the structure's footprint on the land; and

(2) replace structures damaged or lost to fire or natural disaster.

(b) Paragraph (a), clause (2), applies only when an application for a building permit is made within 180 days of the damage or loss.

Subd. 4. **Expansion.** A county or municipality must allow a resort owner to increase a structure footprint to minimally meet federal, state, or local dwelling standards or codes. To "minimally meet" the standards or codes means that the replacement structure does not add new architectural elements, such as more bedrooms, that did not exist in the original structure. Structural expansion under this subdivision must not result in the structure being any larger than required to meet standards or codes or the structure or any portion thereof being any closer to the shoreline than prior to the expansion.

Subd. 5. **Change in ownership.** A change in ownership of a resort shall not be construed as a conversion to a different use so long as the new owner continues to use the property as a resort."

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight. Amendments adopted. Report adopted.

Senator Chaudhary from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 1937: A bill for an act relating to taxation; payment in lieu of taxes; allowing a town that incorporates into a city to continue receiving certain payments; amending Minnesota Statutes 2006, section 97A.061, subdivision 2.

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

Page 1, line 19, delete "incorporated" and insert "incorporates"

Page 1, line 21, delete "governing body of the" and after "city" insert "council"

Page 1, line 22, after "prohibits" insert "the discharge of firearms or" and delete "city" and insert "state land for which the payment is received"

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

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

S.F. No. 728: A bill for an act relating to waters; modifying requirements for contested case hearing notices; amending Minnesota Statutes 2006, section 103G.311, subdivision 2.

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 2006, section 103G.311, subdivision 2, is amended to read:

Subd. 2. **Hearing notice.** (a) The hearing notice on an application must state include:

(1) the date, place, and time fixed by the commissioner for the hearing; ~~and~~

(2) the waters affected, the water levels sought to be established, or control structures proposed; and

(3) the matters prescribed by sections 14.57 to 14.59 and rules adopted thereunder.

(b) A summary of the hearing notice must be published by the commissioner at the expense of the applicant or, if the proceeding is initiated by the commissioner in the absence of an applicant, at the expense of the commissioner.

(c) The summary of the hearing notice must be:

(1) published once a week for two successive weeks before the day of hearing in a legal newspaper published in the county where any part of the affected waters is located; and

(2) mailed by the commissioner to the county auditor, the mayor of a municipality, the watershed district, and the soil and water conservation district affected by the application; ~~and~~

~~(3) made under requirements prescribed by sections 14.57 to 14.59 and rules of the chief administrative law judge."~~

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight. Amendments adopted. Report adopted.

Senator Murphy from the Committee on Transportation, to which was re-referred

S.F. No. 739: A bill for an act relating to natural resources; modifying all-terrain vehicle operating provisions; amending Minnesota Statutes 2006, sections 84.9256, subdivision 2, by adding a subdivision; 84.9257; 84.926, by adding a subdivision; 84.928, subdivision 1; 169A.35, subdivision 1; repealing Minnesota Statutes 2006, section 84.928, subdivision 8.

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

Page 2, line 30, after "(d)" insert "or (f)"

Page 2, line 34, after "(d)" insert "or (f)"

Page 4, line 11, after "designated" insert "for that vehicle"

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

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

S.F. No. 345: A bill for an act relating to health; providing for the medical use of marijuana; providing civil and criminal penalties; establishing application and renewal fees; appropriating money; amending Minnesota Statutes 2006, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 152.

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 2006, section 13.3806, is amended by adding a subdivision to read:

Subd. 21. **Medical use of marijuana data.** Data collected by the commissioner of health relating to registrations for the medical use of marijuana are classified in section 152.25, subdivision 5.

Sec. 2. [152.22] **DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of sections 152.22 to 152.31, the terms defined in this section have the meanings given them.

Subd. 2. **Allowable amount of marijuana.** (a) With respect to a qualifying patient, the "allowable amount of marijuana" means 2.5 ounces of usable marijuana.

(b) With respect to a primary caregiver, the "allowable amount of marijuana" for each patient means 2.5 ounces of usable marijuana.

(c) With respect to a registered organization, the "allowable amount of marijuana" for each patient means:

- (1) 12 marijuana plants;
- (2) 2.5 ounces of usable marijuana; and
- (3) any amount of other parts of the marijuana plant.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Debilitating medical condition.** "Debilitating medical condition" means:

(1) cancer, glaucoma, acquired immune deficiency syndrome, hepatitis C, Tourette's Syndrome, or the treatment of these conditions;

(2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than six months; severe nausea; seizures, including, but not limited to, those characteristic of epilepsy; severe and persistent muscle spasms, including, but not limited to, those characteristic of multiple sclerosis and Crohn's disease; or agitation of Alzheimer's disease;

(3) the condition of an HIV-positive patient when the patient's condition has worsened and the patient's physician believes the patient could benefit from consumption of marijuana; or

(4) any other medical condition or its treatment approved by the commissioner.

Subd. 5. **Department.** "Department" means the Minnesota Department of Health.

Subd. 6. **Medical use of marijuana.** "Medical use of marijuana" means the acquisition, possession, use, delivery, transfer, or transportation of marijuana or paraphernalia, as defined in section 152.01, subdivision 18, relating to the consumption of marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

Subd. 7. **Practitioner.** "Practitioner" means a licensed doctor of medicine, a licensed doctor of osteopathy licensed to practice medicine, a physician assistant acting within the scope of authorized practice, or an advanced practice registered nurse.

Subd. 8. **Primary caregiver.** "Primary caregiver" means a person who is at least 18 years old and who has agreed to assist with a qualifying patient's medical use of marijuana. A primary caregiver may assist no more than five qualifying patients with their medical use of marijuana.

Subd. 9. **Qualifying patient.** "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

Subd. 10. **Registry identification card.** "Registry identification card" means a document issued by the commissioner that identifies a person as a qualifying patient or primary caregiver.

Subd. 11. **Usable marijuana.** "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of it, but does not include the seeds, stalks, and roots of the plant.

Subd. 12. **Written certification.** "Written certification" means a statement signed and dated by a practitioner, stating that in the practitioner's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient and would likely alleviate the qualifying patient's debilitating medical condition or symptoms associated with the medical condition. A written certification shall only be made in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition or conditions and recommend the medical use of marijuana to alleviate the condition or symptoms associated with the condition.

Sec. 3. [152.23] PROTECTIONS FOR MEDICAL USE OF MARIJUANA.

Subdivision 1. **Qualifying patient.** A qualifying patient who possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for the medical use of marijuana, provided that the qualifying patient possesses an amount of marijuana that does not exceed the allowable amount.

Subd. 2. **Primary caregiver.** A primary caregiver who possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for assisting a qualifying patient to whom the primary caregiver is connected through the commissioner's registration process with the medical use of marijuana, provided that the primary caregiver possesses an amount of marijuana that does not exceed the allowable amount of marijuana for each qualifying patient to whom the primary caregiver is connected through the registration process.

Subd. 3. **Dismissal of charges.** If a qualifying patient or a primary caregiver who is not in possession of a registry identification card is arrested for possession of an amount of marijuana that does not exceed the allowable amount or is charged with this, the patient or caregiver shall be released from custody and the charges dismissed upon production of a valid registry identification card issued in the person's name.

Subd. 4. **Discrimination prohibited.** No school, employer, or landlord may refuse to enroll, employ, lease to, or otherwise penalize a person solely for the person's status as a registered qualifying patient or a registered primary caregiver.

Subd. 5. **Presumption.** (a) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana if the qualifying patient or primary caregiver:

(1) is in possession of a registry identification card; and

(2) is in possession of an amount of marijuana that does not exceed the amount permitted under sections 152.22 to 152.31.

(b) The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

Subd. 6. **Caregiver's reimbursement.** A primary caregiver may receive reimbursement for costs associated with assisting with a registered qualifying patient's medical use of marijuana. To be reimbursable under this subdivision, a cost must have been actually incurred by the caregiver. Examples of reimbursable costs include mileage, travel expenses, and the price paid to a registered organization for marijuana. A primary caregiver may not be paid any extra fee or compensation for serving as a caregiver. Reimbursement does not constitute sale of controlled substances.

Subd. 7. **Practitioner.** A practitioner shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the Board of Medical Practice or by another business, occupational, or professional licensing board or entity, solely for providing written certifications or otherwise stating that, in the practitioner's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for a patient, provided that nothing shall prevent a practitioner from being sanctioned for failure to properly evaluate a patient's medical condition or otherwise violate the standard of care for evaluating medical conditions.

Subd. 8. **Property rights.** (a) Any interest in or right to property that is lawfully possessed, owned, or used in connection with the medical use of marijuana as authorized in sections 152.22 to 152.31, or acts incidental to such use, is not forfeited under sections 609.531 to 609.5318.

(b) A law enforcement agency that seizes and does not return usable marijuana to a registered qualifying patient or a registered primary caregiver who is acting in compliance with sections 152.22 to 152.31 is liable to the cardholder for the value of the marijuana as determined by the amount paid to the registered organization for the marijuana.

Subd. 9. **Arrest and prosecution prohibited.** No person is subject to arrest or prosecution for any offense related to the possession of marijuana, including constructive possession, conspiracy, aiding and abetting, or being an accessory, solely for being in the presence or vicinity of the medical use of marijuana as permitted under sections 152.22 to 152.31 or, if the person is a primary caregiver acting in compliance with sections 152.22 to 152.31, for assisting a registered qualifying patient with using or administering marijuana.

Subd. 10. **Nursing facilities.** Nursing facilities licensed under chapter 144A or boarding care homes licensed under section 144.50 may adopt reasonable restrictions on the use of medical marijuana by their residents. Such restrictions may include a provision that the facility will not store or maintain the patient's supply of medical marijuana, that caregivers or the hospice agencies serving their residents are not responsible for providing the marijuana for qualifying patients, that marijuana be consumed in a method other than smoking, and that medical marijuana be consumed only in a place specified by the facility. Nothing contained herein, however, shall require such facilities to adopt such restrictions and no facility shall unreasonably limit a qualifying patient's access to or use of marijuana.

Subd. 11. **Maximum amounts of medical marijuana to be received.** A qualifying patient may not receive more than 2.5 ounces of usable marijuana in any 15-day period unless the patient has a written recommendation from a practitioner made in the course of a bona fide practitioner-patient relationship after a full examination of the patient stating that the 15-day limitation should not apply to the patient and the reasons for this. A primary caregiver may not receive more than 2.5 ounces of usable marijuana for a single-qualifying patient in any 15-day period unless the caregiver has a written recommendation from a practitioner made in the course of a bona fide practitioner-patient relationship after a full examination of the patient stating that the 15-day limitation should not apply to the patient and the reasons for this.

Sec. 4. [152.25] REGISTRY IDENTIFICATION CARDS; ISSUANCE.

Subdivision 1. **Requirements; issuance.** (a) The commissioner shall issue registry identification cards to qualifying patients who submit:

(1) a written certification issued within the 90 days immediately preceding the date of application;

(2) the application or renewal fee of \$100;

(3) the name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) the name, address, and telephone number of the qualifying patient's practitioner; and

(5) the name, address, and date of birth of each primary caregiver of the qualifying patient, if any.

(b) The commissioner shall not issue a registry identification card to a qualifying patient under the age of 18 unless:

(1) the qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

(2) a parent, guardian, or person having legal custody consents in writing to:

(i) allow the qualifying patient's medical use of marijuana;

(ii) serve as one of the qualifying patient's primary caregivers; and

(iii) control the acquisition of marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

(c) The commissioner shall verify the information contained in an application or renewal submitted under this section and shall approve or deny an application or renewal within 15 days of receiving it. The commissioner may deny an application or renewal only if the applicant did not provide the information required under this section or if the commissioner determines that the information provided was falsified. Rejection of an application or renewal is a final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the district court.

(d) The commissioner shall issue a registry identification card to each primary caregiver, if any,

who is named in a qualifying patient's approved application, up to a maximum of two primary caregivers per qualifying patient of which one may be a registered organization.

(e) The commissioner shall issue a registry identification card within five days of approving an application or renewal. The card expires one year after the date of issuance. A registry identification card shall contain:

- (1) a photograph of the cardholder;
- (2) the name, address, and date of birth of the qualifying patient;
- (3) the name, address, and date of birth of each primary caregiver of the qualifying patient, if any;
- (4) the date of issuance and expiration date of the registry identification card; and
- (5) a random registry identification number.

Subd. 2. **Notification of changes; penalties.** (a) A qualifying patient who has been issued a registry identification card shall notify the commissioner within ten days of any change in the qualifying patient's name, address, or primary caregiver or if the qualifying patient ceases to have a debilitating medical condition.

(b) Failure to notify the commissioner of a change as required under paragraph (a) is a civil violation, punishable by a fine of no more than \$150. If the person has ceased to have a debilitating medical condition, the card is null and void and the person is liable for any other penalties that may apply to the person's nonmedical use of marijuana.

(c) A registered primary caregiver shall notify the commissioner within ten days of any change in the caregiver's name or address. Failure to notify the commissioner of the change is a civil violation, punishable by a fine of no more than \$150.

(d) When a qualifying patient or primary caregiver notifies the commissioner of any changes under this subdivision, the commissioner shall issue the qualifying patient and each primary caregiver a new registry identification card within ten days of receiving the updated information and a \$10 fee.

(e) When a registered qualifying patient ceases to use the assistance of a registered primary caregiver, the commissioner shall notify the primary caregiver within ten days. The primary caregiver's protections as provided under section 152.23 expire ten days after notification by the commissioner.

Subd. 3. **Lost cards.** If a registered qualifying patient or a registered primary caregiver loses a registry identification card, the patient or caregiver shall notify the commissioner and submit a \$10 fee within ten days of losing the card. Within five days of receiving notification and the required fee, the commissioner shall issue a new registry identification card with a new random identification number.

Subd. 4. **Card as probable cause.** Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.

Subd. 5. **Data practices.** (a) Data in registration applications and supporting data submitted by qualifying patients, including data on primary caregivers and practitioners, are private data on individuals or nonpublic data as defined in section 13.02.

(b) The commissioner shall maintain a list of persons to whom the commissioner has issued registry identification cards. Data in the list are private data on individuals or nonpublic data except that:

(1) upon request of a law enforcement agency, the commissioner shall verify whether a registry identification card is valid solely by confirming the registry identification number; and

(2) the commissioner may notify law enforcement of falsified or fraudulent information submitted for purposes of obtaining or renewing a registration card.

Subd. 6. **Delivery; charging for services.** (a) A registered organization may deliver up to 2.5 ounces of usable marijuana to a qualifying patient within the state to be used in accordance with sections 152.22 to 152.31.

(b) A registered organization may charge a qualifying patient or a primary caregiver for authorized services rendered under sections 152.22 to 152.31. Payment under this paragraph does not constitute sale of controlled substances.

Subd. 7. **Report.** The commissioner shall report annually to the legislature on the number of applications for registry identification cards, the number of qualifying patients and primary caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registry identification cards revoked, and the number of practitioners providing written certification for qualifying patients. The commissioner must not include identifying information on qualifying patients, primary caregivers, or practitioners in the report.

Subd. 8. **Submission of false records; criminal penalty.** A person who knowingly submits false records or documentation required by the commissioner of health to certify an organization under sections 152.22 to 152.31 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 9. **Criminal background check for primary caregivers.** Before issuing a registry identification card to a primary caregiver under this section, the commissioner shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on the caregiver. The provisions of section 152.31, subdivision 7, apply to the background check. A person may not serve as a primary caregiver and a registry identification card may not be issued to the person if the person has been convicted of a drug felony as defined in section 152.31, subdivision 7, paragraph (a). Notwithstanding this provision, if the commissioner determines that the person's conviction was for the medical use of marijuana or assisting with the medical use of marijuana, the commissioner may issue the person a registry identification card and allow the person to serve as a primary caregiver.

Sec. 5. **[152.26] CONSTRUCTION.**

(a) Sections 152.22 to 152.31 do not permit:

(1) a person to undertake a task under the influence of marijuana, when doing so would constitute negligence, professional malpractice, or failure to practice with reasonable skill and safety;

(2) smoking of marijuana:

(i) in a school bus or other form of public transportation;

(ii) on school grounds;

(iii) in a correctional facility;

(iv) in any public place;

(v) where the smoke may be inhaled by a minor; or

(3) a person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence solely for having marijuana metabolites in the patient's system; or

(4) possession of marijuana on school grounds.

As used in clause (2), item (iv), public place does not include a motor vehicle parked in a public place if all the windows are closed.

(b) Nothing in sections 152.22 to 152.31 shall be construed to require:

(1) a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

(2) an employer to accommodate the medical use of marijuana in any workplace.

Sec. 6. [152.27] PENALTIES.

(a) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana is a gross misdemeanor, which shall be in addition to any other penalties that may apply for the nonmedical use of marijuana. If a person convicted of violating this section is a qualifying patient or a primary caregiver, the person is disqualified from further participation under sections 152.22 to 152.31 and the person's registry card is void.

(b) In addition to any other penalty applicable in law, a qualifying patient is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$3,000, or both, if the patient:

(1) sells, transfers, loans, or otherwise gives another person the patient's registry identification card; or

(2) sells, transfers, loans, or otherwise gives another person marijuana obtained under sections 152.22 to 152.31.

In addition, the person is disqualified from further participation under sections 152.22 to 152.31 and the person's registry card is void.

Sec. 7. [152.285] CONSULTATION.

When implementing and overseeing sections 152.22 to 152.31, the commissioner shall consult with the commissioners of public safety and agriculture and may consult with any other

knowledgeable individuals and organizations.

Sec. 8. [152.30] SEVERABILITY.

Any provision of sections 152.22 to 152.31 being held invalid as to any person or circumstances shall not affect the application of any other provision of sections 152.22 to 152.31 that can be given full effect without the invalid section or application.

Sec. 9. [152.31] REGISTERED ORGANIZATION.

Subdivision 1. **Definition.** For purposes of this section, "registered organization" means a nonprofit entity registered with the commissioner under this section that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses marijuana, or related supplies and educational materials to registered qualifying patients and their registered primary caregivers. A registered organization is a primary caregiver, although it may supply marijuana to any number of registered qualifying patients who have designated it as one of their primary caregivers.

Subd. 2. **Registration requirements.** (a) The commissioner shall issue a registered organization license within 20 days to any person who provides:

(1) a fee of \$1,000;

(2) the name of the registered organization;

(3) the physical addresses of the registered organization and any other real property where marijuana is to be possessed, cultivated, manufactured, supplied, or dispensed relating to the operations of the registered organization; and

(4) the name, address, and date of birth of any person who is an agent of or employed by the registered organization.

(b) The commissioner shall issue each agent and employee of a registered organization a registry identification card for a cost of \$10 each within ten days of receipt of the person's identifying information and the fee. Each card shall specify that the cardholder is an employee or agent of a registered organization.

Subd. 3. **Expiration.** A license for a registered organization and each employee or agent registry identification card expires one year after the date of issuance.

Subd. 4. **Inspection.** Registered organizations are subject to reasonable inspection by the commissioner.

Subd. 5. **Organization requirements.** (a) Registered organizations must be established as nonprofit entities. Registered organizations are subject to all applicable state laws governing nonprofit entities, but need not be recognized as a 501(c)(3) organization by the Internal Revenue Service.

(b) Registered organizations may not be located within 500 feet of the property line of a public school, private school, or structure used primarily for religious services or worship.

(c) The operating documents of a registered organization shall include procedures for the

oversight of the registered organization and procedures to ensure adequate record keeping.

(d) A registered organization shall notify the commissioner within ten days of when an employee or agent ceases to work at the registered organization.

(e) The registered organization shall notify the commissioner before a new agent or employee begins working at the registered organization, in writing, and the organization shall submit a \$10 fee for the person's registry identification card.

(f) No registered organization shall be subject to prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, for acting according to sections 152.22 to 152.31 to assist registered qualifying patients to whom it is connected through the commissioner's registration process with the medical use of marijuana, provided that the registered organization possesses an amount of marijuana that does not exceed 12 marijuana plants and 2.5 ounces of usable marijuana for each registered qualifying patient.

(g) No employees, agents, or board members of a registered organization shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, for working for a registered organization according to sections 152.22 to 152.31.

(h) The registered organization is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patients' other primary caregivers.

(i) The registered organization shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana or marijuana plants and the theft of marijuana or marijuana plants. By December 1 of each year, the organization shall submit a summary of the security measures implemented to the commissioner. The commissioner shall review these measures and, if deemed advisable, require reasonable upgrades to security to better protect the marijuana or marijuana plants.

(j) A qualifying patient may not be an employee, agent, shareholder, or board member of a registered organization or be in any other way affiliated with a registered organization.

(k) Registered organizations may cultivate marijuana only indoors.

Subd. 6. **Maximum amount of medical marijuana to be dispensed.** A registered organization, or an employee, agent, or board member of a registered organization may not dispense more than 2.5 ounces of usable marijuana to a qualifying patient or to a primary caregiver on behalf of a qualifying patient during a 15-day period unless the patient or caregiver has a written recommendation from a practitioner made in the course of a bona fide practitioner-patient relationship after a full examination of the patient stating that the 15-day limitation should not apply to the patient and the reasons for this.

Subd. 7. **Background checks; felony drug convictions.** (a) As used in this subdivision, "felony drug offense" means a violation of a state or federal controlled substance law that is classified as a felony under Minnesota law or would be classified as a felony under Minnesota law if committed

in Minnesota, regardless of the sentence imposed.

(b) The department shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all employees, agents, and board members of a registered organization. An application for registry identification cards for employees, agents, and board members must be accompanied by an executed criminal history consent form, including fingerprints.

(c) The superintendent of the Bureau of Criminal Apprehension shall perform the background check required under paragraph (b) by retrieving criminal history data maintained in the Criminal Justice Information System computers and shall also conduct a search of the national criminal records repository. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check.

(d) The department shall refuse to issue a registry card to any agent, employee, or board member of a registered organization who has been convicted of a drug felony. The department, without disclosing the actual results of the national records check, shall notify the registered organization in writing of the purpose for denying the registry identification card. However, the department may grant the person a registry identification card if the commissioner determines that the person's conviction was for the medical use of marijuana or assisting with the medical use of marijuana.

(e) If a registered organization has employed an agent, board member, or employee and is notified that the person failed the background check, it shall terminate the person's status as an agent, board member, or employee within 24 hours of receiving written notification. The result of the criminal background check is private information, and the registered organization may not disclose it, except to defend itself of any charges related to employment law.

(f) No person who has been convicted of a drug felony may be the agent, board member, or employee of a registered organization. Notwithstanding this provision, if the commissioner determines that the person's conviction was for the medical use of marijuana or assisting with the medical use of marijuana, the commissioner may permit the person to be an agent, board member, or employee of a registered organization. A person who is employed by, an agent of, or a board member of a registered organization in violation of this section is guilty of a civil violation punishable by a fine of up to \$1,000. A subsequent violation of this section is a gross misdemeanor.

(g) No registered organization may knowingly and willfully allow a person who has been convicted of a drug felony to be its agent, board member, or employee unless the department has granted the person a registry identification card because the person's conviction was for the medical use of marijuana. A violation is punishable by a fine of up to \$2,000.

Subd. 8. **Penalty.** (a) The registered organization may not possess an amount of marijuana that exceeds the total of the allowable amounts of marijuana for the registered qualifying patients for whom the organization is a registered primary caregiver. The registered organization may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or the patient's primary caregiver. An intentional violation of this subdivision is a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than \$3,000, or both. This penalty is in addition to any other penalties applicable in law.

(b) A person convicted of violating paragraph (a) may not continue to be affiliated with the registered organization and is disqualified from further participation under sections 152.22 to

152.31.

Sec. 10. **[152.32] MEDICAL MARIJUANA ACCOUNT.**

All fees, fines, and other money collected by the commissioner under sections 152.22 to 152.31 shall be forwarded by the commissioner to the commissioner of finance. The commissioner of finance shall deposit this money into an account to be known as the medical marijuana account.

Sec. 11. **APPROPRIATIONS.**

\$...... for the fiscal year ending June 30, 2008, and \$...... for the fiscal year ending June 30, 2009, are appropriated from the medical marijuana account in the special revenue fund to the commissioner of health to implement Minnesota Statutes, sections 152.22 to 152.31.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 11 are effective January 1, 2008."

Delete the title and insert:

"A bill for an act relating to health; providing for the medical use of marijuana; providing civil and criminal penalties; appropriating money; amending Minnesota Statutes 2006, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 152."

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

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

S.F. No. 443: A bill for an act relating to public safety; regulating scrap metal dealers; creating the crime of damage or theft to energy transmission or telecommunications equipment; providing penalties; amending Minnesota Statutes 2006, section 325E.21; proposing coding for new law in Minnesota Statutes, chapter 609.

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 2006, section 13.82, subdivision 27, is amended to read:

Subd. 27. **Pawnshop and scrap metal dealer data.** Data that would reveal the identity of persons who are customers of a licensed pawnbroker or secondhand goods dealer or a scrap metal dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker or secondhand goods dealer or a scrap metal dealer are public.

Sec. 2. **[299C.25] SCRAP METAL DEALERS; EDUCATIONAL MATERIALS.**

(a) The superintendent shall develop educational materials relating to the laws governing scrap metal dealers, including, but not limited to, applicable laws addressing receiving stolen property and the provisions of section 325E.21. In addition, the materials must address the proper use of the criminal alert network under section 299A.61, and must include a glossary of the terms used by law enforcement agencies to describe items of scrap metal that are different than the terms used in the scrap metal industry to describe those same items.

(b) In developing the materials under paragraph (a), the superintendent shall seek the advice of scrap metal trade associations, Minnesota scrap metal dealers, and law enforcement agencies.

(c) The superintendent shall distribute the materials developed in paragraph (a) to all scrap metal dealers registered with the criminal alert network.

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

Sec. 3. Minnesota Statutes 2006, section 325E.21, is amended to read:

325E.21 DEALERS IN ~~WIRE AND CABLE~~ SCRAP METAL; RECORDS AND, REPORTS, AND REGISTRATION.

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

(b) "Check" means a check, draft, or other negotiable or nonnegotiable order of withdrawal which is drawn against funds held by a financial institution.

(c) "Law enforcement agency" or "agency" means a duly authorized municipal, county, state, or federal law enforcement agency.

(d) "Person" means an individual, partnership, limited partnership, limited liability company, corporation, or other entity.

(e) "Scrap metal" means:

(1) wire and cable commonly and customarily used by communication and electric utilities; and

(2) copper, aluminum, or any other metal purchased primarily for its reuse or recycling value as raw metal, including metal that is combined with other materials at the time of purchase.

(f) "Scrap metal dealer" or "dealer" means a person engaged in the business of buying or selling scrap metal, or both, but does not include a person engaged exclusively in the business of buying or selling new or used motor vehicles or motor vehicle parts, paper or wood products, rags or furniture, or secondhand machinery.

~~Subdivision 1. Subd. 1a. **Purchase or acquisition record required.** (a) Every person, firm or corporation scrap metal dealer, including an agent, employee, or representative thereof of the dealer, engaging in the business of buying and selling wire and cable commonly and customarily used by communication and electric utilities shall keep a written record, in the English language, legibly written in ink or typewriting, at the time of each purchase or acquisition, of scrap metal. The record must include:~~

(1) an accurate account or description, including the weight if customarily purchased by weight, of such wire and cable commonly and customarily used by communication and electric utilities the scrap metal purchased or acquired;

(2) the date, time, and place of the receipt of the same, scrap metal purchased or acquired;

(3) the name and address of the person selling or delivering the same and scrap metal;

(4) the number of the check used to purchase the scrap metal;

(5) the number of the seller's or deliverer's driver's license of such person, Minnesota identification card number, or other identification document number of an identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, and signature; and

(6) the license plate number and description of the vehicle used by the person when delivering the scrap metal, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable.

~~Such (b) The record, as well as such wire and cable commonly and customarily used by communication and electric utilities the scrap metal purchased or received, shall at all reasonable times be open to the inspection of any sheriff or deputy sheriff of the county, or of any police officer in any incorporated city or statutory city, in which such business may be carried on law enforcement agency.~~

~~Such person shall not be (c) No record is required to furnish or keep such record of any for property purchased from merchants, manufacturers or wholesale dealers, having an established place of business, or of any goods purchased at open sale from any bankrupt stock, but a bill of sale or other evidence of open or legitimate purchase of such the property shall be obtained and kept by such the person which must be shown upon demand to the sheriff or deputy sheriff of the county, or to any police officer in any incorporated city or statutory city, in which such business may be carried on. The provisions of this subdivision and of subdivision 2 shall not apply to or include any person, firm or corporation engaged exclusively in the business of buying or selling motor vehicles, new or used, paper or wood products, rags or furniture, secondhand machinery any law enforcement agency.~~

(d) Except as otherwise provided in this section, a scrap metal dealer or the dealer's agent, employee, or representative may not disclose personal information concerning a customer without the customer's consent unless the disclosure is made in response to a request from a law enforcement agency. A scrap metal dealer must implement reasonable safeguards to protect the security of the personal information and prevent unauthorized access to or disclosure of the information. For purposes of this paragraph, "personal information" is any individually identifiable information gathered in connection with a record under paragraph (a).

~~Subd. 2. **Sheriff's copy of record required.** It shall be the duty of every such person, firm or corporation defined in subdivision 1 hereof, to make out and to deliver or mail to the office of the sheriff of the county in which business is conducted, not later than the second business day of each week, a legible and correct copy of the record required in subdivision 1 of the entries during the preceding week. In the event such person, firm or corporation has not made any purchases or acquisitions required to be recorded under subdivision 1 hereof during the preceding week no report need be submitted to the sheriff under this subdivision.~~

~~Subd. 3. **Retention required.** Records required to be maintained by subdivision 1 hereof 1a shall be retained by the person making them scrap metal dealer for a period of three years.~~

Subd. 3. **Payment by check or electronic transfer required.** A scrap metal dealer or the dealer's agent, employee, or representative shall pay for all scrap metal purchases only by check or electronic transfer.

Subd. 4. **Registration required.** (a) Every scrap metal dealer shall register with and participate

in the criminal alert network described in section 299A.61. The dealer shall ensure that the dealer's system for receiving incoming notices from the network is in proper working order and ready to receive incoming notices. The dealer shall check the system for incoming notices twice each day the business is open, once upon opening and then again before closing. The dealer shall inform all employees involved in the purchasing or receiving of scrap metal of alerts received relating to scrap metal of the type that might be conceivably sold to the dealer. In addition, the dealer shall post copies of the alerts in a conspicuous location.

(b) The scrap metal dealer shall pay to the commissioner of public safety a \$50 annual fee to participate in the criminal alert network and for the educational materials described in section 299C.25.

(c) The commissioner shall notify the scrap metal dealer if a message sent to the dealer is returned as undeliverable or is otherwise not accepted for delivery by the dealer's system. The dealer shall take action necessary to ensure that future messages are received.

Subd. 5. **Training.** Each scrap metal dealer shall review the educational materials provided by the superintendent of the Bureau of Criminal Apprehension under section 299C.25 and ensure that all employees do so as well.

Subd. 6. **Criminal penalty.** A scrap metal dealer, or the agent, employee, or representative of the dealer, who intentionally violates a provision of this section, is guilty of a misdemeanor.

Subd. 7. **Exemption.** A scrap metal dealer may purchase aluminum cans without complying with this section.

Subd. 8. **Property held by law enforcement.** (a) Whenever a law enforcement official from any agency has probable cause to believe that property in the possession of a scrap metal dealer is stolen or is evidence of a crime and notifies the dealer not to sell the item, the item may not be sold or removed from the premises. This investigative hold remains in effect for 90 days from the date of initial notification, or until it is canceled or a seizure order is issued, whichever comes first.

(b) If an item is identified as stolen or evidence in a criminal case, the law enforcement official may:

(1) physically seize and remove it from the dealer, pursuant to a written order from the law enforcement official; or

(2) place the item on hold or extend the hold as provided in this section and leave it in the shop.

(c) When an item is seized, the person doing so shall provide identification upon request of the dealer, and shall provide the dealer the name and telephone number of the seizing agency and investigator, and the case number related to the seizure.

(d) A dealer may request seized property be returned in accordance with section 626.04.

(e) When an order to hold or seize is no longer necessary, the law enforcement official shall so notify the dealer.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2006, section 609.52, is amended by adding a subdivision to read:

Subd. 3a. **Enhanced penalty.** If a violation of this section creates a reasonably foreseeable risk of bodily harm to another, the penalties described in subdivision 3 are enhanced as follows:

(1) if the penalty is a misdemeanor or a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both; and

(2) if the penalty is a felony, the statutory maximum sentence for the offense is 50 percent longer than for the underlying crime.

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2006, section 609.526, is amended to read:

609.526 PRECIOUS METAL AND SCRAP METAL DEALERS; RECEIVING STOLEN PROPERTY.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given:

(1) "precious metal dealer" has the meaning given in section 325F.731, subdivision 2; and

(2) "scrap metal dealer" has the meaning given in section 325E.21, subdivision 1.

Subd. 2. **Crime described.** Any precious metal dealer as defined in section 325F.731, subdivision 2, or scrap metal dealer or any person employed by a precious metal dealer as defined in section 325F.731, subdivision 2, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:

(1) if the value of the property received, bought, or concealed is \$1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than \$50,000, or both;

(2) if the value of the property received, bought, or concealed is less than \$1,000 but more than \$300 \$500, to imprisonment for not more than five three years or to payment of a fine of not more than \$40,000 \$25,000, or both;

(3) if the value of the property received, bought, or concealed is \$300 \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).

EFFECTIVE DATE. This section is effective August 1, 2007, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to public safety; regulating scrap metal dealers by requiring that they pay for scrap metal only by checks, collect specified information about transactions, and participate in the criminal alert network; enhancing penalties for theft that creates a risk to the public; expanding

the receiving stolen property crime for precious metal dealers to include scrap metal dealers, and adjusting the maximum penalty and monetary threshold for certain of these offenses; requiring educational materials for scrap metal dealers; providing criminal penalties; amending Minnesota Statutes 2006, sections 13.82, subdivision 27; 325E.21; 609.52, by adding a subdivision; 609.526; proposing coding for new law in Minnesota Statutes, chapter 299C."

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 and Consumer Protection, to which was referred

S.F. No. 1464: A bill for an act relating to motor vehicles; requiring motor vehicle collision repair to include air bag repair or replacement; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

Page 1, line 17, before "A" insert "(a)"

Page 1, after line 20, insert:

"(b) A person may not knowingly install or reinstall any object in lieu of an airbag designed for the make, model, and year of the vehicle, as part of a vehicle inflatable restraint system."

Page 1, line 21, after "2" insert ", paragraph (a),"

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

Senator Scheid from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 1532: A bill for an act relating to commerce; regulating the business of credit counseling and debt management services; providing remedies and criminal penalties; appropriating money; amending Minnesota Statutes 2006, section 325E.311, subdivision 6; proposing coding for new law as Minnesota Statutes, chapter 332A; repealing Minnesota Statutes 2006, sections 332.12; 332.13; 332.14; 332.15; 332.16; 332.17; 332.18; 332.19; 332.20; 332.21; 332.22; 332.23; 332.24; 332.25; 332.26; 332.27; 332.28; 332.29.

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 2006, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 345, and 359, and sections 325D.30 to 325D.42, 326.83 to 326.991, and 386.61 to 386.78, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2006, section 46.04, subdivision 1, is amended to read:

Subdivision 1. **General.** The commissioner of commerce, referred to in chapters 46 to 59A,

and ~~sections 332.12 to 332.29~~ chapter 332A, as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, chapter 201, were conferred by law upon the public examiner, and shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of commerce shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, and other financial institutions doing business within this state; and shall, through examiners, examine each financial institution at least once every 24 calendar months. In satisfying this examination requirement, the commissioner may accept reports of examination prepared by a federal agency having comparable supervisory powers and examination procedures. With the exception of industrial loan and thrift companies which do not have deposit liabilities and licensed regulated lenders, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. It shall be the further purpose of these examinations to assess the adequacy of capital protection and the capacity of the institution to meet usual and reasonably anticipated deposit withdrawals and other cash commitments without resorting to excessive borrowing or sale of assets at a significant loss, and to investigate each institution's compliance with applicable laws and rules. Based on the examination findings, the commissioner shall make a determination as to whether the institution is being operated in a safe and sound manner. None of the above provisions limits the commissioner in making additional examinations as deemed necessary or advisable. The commissioner shall investigate the methods of operation and conduct of these institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. The commissioner may make requirements as to records as deemed necessary to facilitate the carrying out of the commissioner's duties and to properly protect the public interest. The commissioner may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any financial institution touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued under the commissioner's direction, the refusal may at once be reported to the district court of the district in which the bank or other financial institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to official duties, the commissioner of commerce has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, savings associations, and other financial institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make returns and reports to the commissioner of commerce as the commissioner may require; attend and answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books, accounts, documents, and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of duties.

Sec. 3. Minnesota Statutes 2006, section 46.05, is amended to read:

46.05 SUPERVISION OVER FINANCIAL INSTITUTIONS.

Every state bank, savings bank, trust company, savings association, debt management services provider, and other financial institutions shall be at all times under the supervision and subject to the control of the commissioner of commerce. If, and whenever in the performance of duties, the commissioner finds it necessary to make a special investigation of any financial institution under the commissioner's supervision, and other than a complete examination, the commissioner shall make a charge therefor to include only the necessary costs thereof. Such a fee shall be payable to the commissioner on the commissioner's making a request for payment.

Sec. 4. Minnesota Statutes 2006, section 46.131, subdivision 2, is amended to read:

Subd. 2. **Assessment authority.** Each bank, trust company, savings bank, savings association, regulated lender, industrial loan and thrift company, credit union, motor vehicle sales finance company, ~~debt prorating agency~~ debt management services provider and insurance premium finance company organized under the laws of this state or required to be administered by the commissioner of commerce shall pay into the state treasury its proportionate share of the cost of maintaining the Department of Commerce.

Sec. 5. Minnesota Statutes 2006, section 325E.311, subdivision 6, is amended to read:

Subd. 6. **Telephone solicitation.** "Telephone solicitation" means any voice communication over a telephone line for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device as defined in section 325E.26, subdivision 2, or by other means. Telephone solicitation does not include communications:

- (1) to any residential subscriber with that subscriber's prior express invitation or permission; or
- (2) by or on behalf of any person or entity with whom a residential subscriber has a prior or current business or personal relationship.

Telephone solicitation also does not include communications if the caller is identified by a caller identification service and the call is:

- (i) by or on behalf of an organization that is identified as a nonprofit organization under state or federal law, unless the organization is a debt management services provider defined in section 332A.02;
- (ii) by a person soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the solicitor who makes the call and the prospective purchaser; or
- (iii) by a political party as defined under section 200.02, subdivision 6.

Sec. 6. Minnesota Statutes 2006, section 325N.01, is amended to read:

325N.01 DEFINITIONS.

The definitions in paragraphs (a) to (h) apply to sections 325N.01 to 325N.09.

- (a) "Foreclosure consultant" means any person who, directly or indirectly, makes any

solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which the person in any manner represents will in any manner do any of the following:

- (1) stop or postpone the foreclosure sale;
 - (2) obtain any forbearance from any beneficiary or mortgagee;
 - (3) assist the owner to exercise the right of reinstatement provided in section 580.30;
 - (4) obtain any extension of the period within which the owner may reinstate the owner's obligation;
 - (5) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;
 - (6) assist the owner in foreclosure or loan default to obtain a loan or advance of funds;
 - (7) avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale; or
 - (8) save the owner's residence from foreclosure.
- (b) A foreclosure consultant does not include any of the following:
- (1) a person licensed to practice law in this state when the person renders service in the course of his or her practice as an attorney-at-law;
 - (2) a person licensed as a debt ~~prorater~~ under sections 332.12 to 332.29 management services provider under chapter 332A, when the person is acting as a debt ~~prorater~~ management services provider as defined in these sections that chapter;
 - (3) a person licensed as a real estate broker or salesperson under chapter 82 when the person engages in acts whose performance requires licensure under that chapter unless the person is engaged in offering services designed to, or purportedly designed to, enable the owner to retain possession of the residence in foreclosure;
 - (4) a person licensed as an accountant under chapter 326A when the person is acting in any capacity for which the person is licensed under those provisions;
 - (5) a person or the person's authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services;
 - (6) a person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with this obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;
 - (7) any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities while

engaged in the business of these persons or entities;

(8) a person licensed as a residential mortgage originator or servicer pursuant to chapter 58, when acting under the authority of that license or a foreclosure purchaser as defined in section 325N.10;

(9) a nonprofit agency or organization that offers counseling or advice to an owner of a home in foreclosure or loan default if they do not contract for services with for-profit lenders or foreclosure purchasers; and

(10) a judgment creditor of the owner, to the extent that the judgment creditor's claim accrued prior to the personal service of the foreclosure notice required by section 580.03, but excluding a person who purchased the claim after such personal service.

(c) "Foreclosure reconveyance" means a transaction involving:

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder; and

(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess the real property following the completion of the foreclosure proceeding, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease.

(d) "Person" means any individual, partnership, corporation, limited liability company, association, or other group, however organized.

(e) "Service" means and includes, but is not limited to, any of the following:

(1) debt, budget, or financial counseling of any type;

(2) receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure;

(3) contacting creditors on behalf of an owner of a residence in foreclosure;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure the owner's default and reinstate his or her obligation pursuant to section 580.30;

(5) arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure;

(6) advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court; or

(7) giving any advice, explanation, or instruction to an owner of a residence in foreclosure, which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure, pursuant to a power of sale contained in any

mortgage.

(f) "Residence in foreclosure" means residential real property consisting of one to four family dwelling units, one of which the owner occupies as his or her principal place of residence, and against which there is an outstanding notice of pendency of foreclosure, recorded pursuant to section 580.032, or against which a summons and complaint has been served under chapter 581.

(g) "Owner" means the record owner of the residential real property in foreclosure at the time the notice of pendency was recorded, or the summons and complaint served.

(h) "Contract" means any agreement, or any term in any agreement, between a foreclosure consultant and an owner for the rendition of any service as defined in paragraph (e).

Sec. 7. **[332A.02] DEFINITIONS.**

Subdivision 1. **Scope.** Unless a different meaning is clearly indicated by the context, for the purposes of this chapter the terms defined in this section have the meanings given them.

Subd. 2. **Accreditation.** "Accreditation" means certification to industry standards as an accredited credit counseling provider by the International Standards Organization or the Council on Accreditation.

Subd. 3. **Attorney general.** "Attorney general" means the attorney general of the state of Minnesota.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Controlling or affiliated party.** "Controlling or affiliated party" means any person directly or indirectly controlling, controlled by, or under common control with another person.

Subd. 6. **Debt management services agreement.** "Debt management services agreement" means the written contract between the debt management services provider and the debtor.

Subd. 7. **Debt management services plan.** "Debt management services plan" means the debtor's individualized package of debt management services set forth in the debt management services agreement.

Subd. 8. **Debt management services provider.** "Debt management services provider" means any person offering or providing debt management services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. This term does not include services performed by the following when engaged in the regular course of their respective businesses and professions:

(1) attorneys at law, escrow agents, accountants, broker-dealers in securities;

(2) state or national banks, trust companies, savings associations, title insurance companies, insurance companies, and all other lending institutions duly authorized to transact business in Minnesota, provided no fee is charged for the service;

(3) persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt management, perform credit services for their employer;

(4) public officers acting in their official capacities and persons acting as a debt management

services provider pursuant to court order;

(5) any person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;

(6) the state, its political subdivisions, public agencies, and their employees;

(7) credit unions and collection agencies, provided no fee is charged for the service;

(8) "qualified organizations" designated as representative payees for purposes of the Social Security and Supplemental Security Income Representative Payee System and the federal Omnibus Budget Reconciliation Act of 1990, Public Law 101-508;

(9) accelerated mortgage payment providers. "Accelerated mortgage payment providers" are persons who, after satisfying the requirements of sections 332.30 to 332.303, receive funds to make mortgage payments to a lender or lenders, on behalf of mortgagors, in order to exceed regularly scheduled minimum payment obligations under the terms of the indebtedness. The term does not include: (i) persons or entities described in clauses (1) to (8); (ii) mortgage lenders or servicers, industrial loan and thrift companies, or regulated lenders under chapter 56; or (iii) persons authorized to make loans under section 47.20, subdivision 1. For purposes of this clause and sections 332.30 to 332.303, "lender" means the original lender or that lender's assignee, whichever is the current mortgage holder; and

(10) debt settlement providers.

Subd. 9. **Debt management services.** "Debt management services" means the provision of any one or more of the following:

(1) managing the financial affairs of an individual by distributing income or money to the individual's creditors; or

(2) receiving funds for the purpose of distributing the funds among creditors in payment or partial payment of obligations of a debtor.

Any person so engaged or holding out as so engaged is deemed to be engaged in the provision of debt management services regardless of whether or not a fee is charged for such services.

Subd. 10. **Debt settlement service.** "Debt settlement service" means the negotiation, adjustment, or settlement of a consumer's debt with the consumer's creditor without holding or receiving the debtor's funds or property and without paying the debtor's funds to, or distributing the debtor's property among, creditors.

Subd. 11. **Debt settlement provider.** "Debt settlement provider" means any person or entity engaging in or holding itself out as engaging in the business of debt settlement service for compensation. The term shall not include persons or entities listed in subdivision 8, clauses (1) to (9).

Subd. 12. **Debtor.** "Debtor" means the person for whom the debt management services are performed.

Subd. 13. **Person.** "Person" means any individual, firm, partnership, association, or corporation.

Subd. 14. **Registrant.** "Registrant" means any person registered by the commissioner pursuant to this chapter and, where used in conjunction with an act or omission required or prohibited by this chapter, shall mean any person performing debt management services.

Sec. 8. **[332A.03] REQUIREMENT OF REGISTRATION.**

On or after August 1, 2007, it is unlawful for any person, whether or not located in this state, to operate as a debt management services provider or provide debt management services, including, but not limited to, offering, advertising, or executing or causing to be executed any debt management services or debt management services agreement, except as authorized by law without first becoming registered as provided in this chapter. A person who possesses a valid license as a debt prorater that was issued by the commissioner before August 1, 2007, is deemed to be registered as a debt management services provider until the date the debt prorater license expires, at which time the licensee must obtain a renewal as a debt management services provider in compliance with this chapter. Debt proraters who were not required to be licensed as debt proraters before August 1, 2007, may continue to provide debt management services without complying with this chapter to those debtors who entered into a contract to participate in a debt management plan before August 1, 2007, except that the debt prorater must comply with section 332A.13, subdivision 2.

Sec. 9. **[332A.04] REGISTRATION.**

Subdivision 1. **Form.** Application for registration to operate as a debt management services provider in this state must be made in writing to the commissioner, under oath, in the form prescribed by the commissioner, and must contain:

- (1) the full name of each principal of the entity applying;
- (2) the address, which must not be a post office box, and the telephone number and, if applicable, e-mail address, of the applicant;
- (3) identification of the trust account required under section 332A.13;
- (4) consent to the jurisdiction of the courts of this state;
- (5) the name and address of the registered agent authorized to accept service of process on behalf of the applicant or appointment of the commissioner as the applicant's agent for purposes of accepting service of process;
- (6) disclosure of:
 - (i) whether any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt management services or involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;
 - (ii) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant or any officer, director, manager, or shareholder owning more than five percent interest in the applicant, unresolved or otherwise, filed or otherwise commenced within the preceding ten years;

(iii) whether the applicant or any person employed by the applicant has had a record of having defaulted in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings; and

(iv) whether the applicant's license or registration to provide debt management services in any other state has ever been revoked or suspended;

(7) a copy of the applicant's standard debt management services agreement that the applicant intends to execute with debtors;

(8) proof of accreditation of:

(i) the debt management services provider; and

(ii) all individuals employed by, under contract with, or otherwise agents of the provider who offer to provide or provide debt management services; and

(9) any other information and material as the commissioner may require.

Subd. 2. **Term and scope of registration.** The registration must remain in full force and effect for one year or until it is surrendered by the registrant or revoked or suspended by the commissioner. The registration is limited solely to the business of providing debt management services.

Subd. 3. **Fees.** The registration application must be accompanied by payment of \$1,000 as a registration fee.

Subd. 4. **Bond.** The registration application must be accompanied by payment of the premium for a surety bond in which the applicant shall be the obligor, in a sum to be determined by the commissioner but not less than \$5,000, and in which an insurance company, which is duly authorized by the state of Minnesota to transact the business of fidelity and surety insurance, shall be a surety. However, the commissioner may accept a deposit in cash, or securities that may legally be purchased by savings banks or for trust funds of an aggregate market value equal to the bond requirement, in lieu of the surety bond. The cash or securities must be deposited with the commissioner of finance. The commissioner may also require a fidelity bond in an appropriate amount covering employees of any applicant. Each branch office or additional place of business of an applicant must be bonded as provided in this subdivision. In determining the bond amount necessary for the maintenance of any office, whether it is a surety bond, fidelity bond, or both, the commissioner shall consider the financial responsibility, experience, character, and general fitness of the debt management services provider and its operators and owners; the volume of business handled or proposed to be handled; the location of the office and the geographical area served or proposed to be served; and other information the commissioner may deem pertinent based upon past performance, previous examinations, annual reports, and manner of business conducted in other states.

Subd. 5. **Condition of bond.** The bond must run to the state of Minnesota for the use of the state and of any person or persons who may have a cause of action against the obligor arising out of the obligor's activities as a debt management services provider to a debtor domiciled in this state. The bond must be conditioned that the obligor will not commit any fraudulent act and will faithfully conform to and abide by the provisions of this chapter and of all rules lawfully made by the commissioner under this chapter and pay to the state and to any such person or persons any and all money that may become due or owing to the state or to such person or persons from the obligor

under and by virtue of this chapter.

Subd. 6. **Right of action on bond.** If the registrant has failed to account to a debtor or distribute to the debtor's creditors the amounts required by this chapter and the debt management services agreement between the debtor and registrant, the debtor or the debtor's legal representative or receiver, the commissioner, or the attorney general, shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given under this section, for loss suffered by the debtor, not exceeding the face amount of the bond or security, and without the necessity of joining the registrant in the suit or action.

Subd. 7. **Registrant list.** The commissioner must maintain a list of registered debt management services providers. The list must be made available to the public in written form upon request and on the Department of Commerce Web site.

Sec. 10. **[332A.05] NONASSIGNMENT OF REGISTRATION.**

A registration must not be transferred or assigned without the consent of the commissioner.

Sec. 11. **[332A.06] RENEWAL OF REGISTRATION.**

Each year, each registrant under the provisions of this chapter must, not more than 60 nor less than 30 days before its registration is to expire, apply to the commissioner for renewal of its registration on a form prescribed by the commissioner. The application must be signed by the registrant under penalty of perjury, contain current information on all matters required in the original application, and be accompanied by a payment of \$250. The registrant must maintain a continuous surety bond that satisfies the requirements of section 332A.04, subdivision 4, provided that the commissioner may require a different amount that is at least equal to the largest amount that has accrued in the registrant's trust account during the previous year. The renewal is effective for one year.

Sec. 12. **[332A.07] OTHER DUTIES OF REGISTRANT.**

Subdivision 1. **Requirement to update information.** A registrant must update any information required by this chapter provided in its original or renewal application not later than 90 days after the date the events precipitating the update occurred.

Subd. 2. **Inspection of debtor of registration.** Each registrant must maintain a copy of its registration in its files. The registrant must allow a debtor, upon request, to inspect the registration.

Sec. 13. **[332A.08] DENIAL OF REGISTRATION.**

The commissioner, with notice to the applicant by certified mail sent to the address listed on the application, may deny an application for a registration upon finding that the applicant:

(1) has submitted an application required under section 332A.04 that contains incorrect, misleading, incomplete, or materially untrue information. An application is incomplete if it does not include all the information required in section 332A.04;

(2) has failed to pay any fee or pay or maintain any bond required by this chapter, or failed to comply with any order, decision, or finding of the commissioner made under and within the authority of this chapter;

(3) has violated any provision of this chapter or any rule or direction lawfully made by the commissioner under and within the authority of this chapter;

(4) or any controlling or affiliated party has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of a federal or state law or regulation in connection with activities relating to the rendition of debt management services or any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(5) has had a registration or license previously revoked or suspended in this state or any other state or the applicant or registrant has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business; or any controlling or affiliated party has been an officer, director, manager, or shareholder owning more than a ten percent interest in a debt management services provider whose registration has previously been revoked or suspended in this state or any other state, or who has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the debt management services provider business;

(6) has made any false statement or representation to the commissioner;

(7) is insolvent;

(8) refuses to fully comply with an investigation or examination of the debt management services provider by the commissioner;

(9) has improperly withheld, misappropriated, or converted any money or properties received in the course of doing business;

(10) has failed to have a trust account with an actual cash balance equal to or greater than the sum of the escrow balances of each debtor's account;

(11) has defaulted in making payments to creditors on behalf of debtors as required by agreements between the provider and debtor; or

(12) has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere.

Sec. 14. [332A.09] SUSPENDING, REVOKING, OR REFUSING TO RENEW REGISTRATION.

Subdivision 1. **Procedure.** The commissioner may revoke, suspend, or refuse to renew any registration issued under this chapter, or may levy a civil penalty under section 45.027, or any combination of actions, if the debt management services provider or any controlling or affiliated person has committed any act or omission for which the commissioner could have refused to issue an initial registration or renew an existing registration. Revocation of or refusal to renew a registration must be upon notice and hearing as prescribed in the Administrative Procedure Act, sections 14.57 to 14.69. The notice must set a time for hearing before the commissioner not less than 20 nor more than 30 days after service of the notice, provided the registrant may waive the 20-day minimum. The commissioner may, in the notice, suspend the registration for a period not to exceed 60 days. Unless

the notice states that the registration is suspended, pending the determination of the main issue, the registrant may continue to transact business until the final decision of the commissioner. If the registration is suspended, the commissioner shall hold a hearing and render a final determination within ten days of a request by the registrant. If the commissioner fails to do so, the suspension shall terminate and be of no force or effect.

Subd. 2. **Notification of interested persons.** After the notice and hearing required in subdivision 1, upon issuing an order suspending or revoking a registration or refusing to renew a registration, the commissioner may notify all individuals who have contracts with the affected registrant and all creditors who have agreed to a debt management services plan that the registration has been revoked and that the order is subject to appeal.

Subd. 3. **Receiver for funds of sanctioned registrant.** When an order is issued revoking or refusing to renew a registration, the commissioner may apply for, and the district court must appoint, a receiver to temporarily or permanently receive the assets of the registrant pending a final determination of the validity of the order.

Sec. 15. [332A.10] WRITTEN DEBT MANAGEMENT SERVICES AGREEMENT.

Subdivision 1. **Written agreement required.** A debt management services provider may not perform any debt management services or receive any money related to a debt management plan until the provider has obtained a debt management services agreement that contains all terms of the agreement between the debt management services provider and the debtor. A debt management services agreement must be in writing, dated, and signed by the debt management services provider and the debtor. The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to written agreement.** No person may provide debt management services for a debtor unless the person first has:

(1) provided the debtor individualized counseling and educational information that, at a minimum, addresses managing household finances, managing credit and debt, budgeting, and personal savings strategies;

(2) prepared in writing and provided to the debtor, in a form that the debtor may keep, an individualized financial analysis and a proposed debt management plan listing the debtor's known debts with specific recommendations regarding actions the debtor should take to reduce or eliminate the amount of the debts, including written disclosure that debt management services are not suitable for all debtors and that there are other ways, including bankruptcy, to deal with indebtedness;

(3) made a determination supported by an individualized financial analysis that the debtor can reasonably meet the requirements of the proposed debt management plan and that there is a net tangible benefit to the debtor of entering into the proposed debt management plan; and

(4) prepared, in a form the debtor may keep, a written list identifying all known creditors of the debtor that the provider reasonably expects to participate in the plan and the creditors, including secured creditors, that the provider reasonably expects not to participate.

Subd. 3. **Required terms.** (a) Each debt management services agreement must contain the following terms, which must be disclosed prominently and clearly in bold print on the front page of the agreement, segregated by bold lines from all other information on the page:

(1) the fee amount to be paid by the debtor and whether the initial fee amount is refundable or nonrefundable;

(2) the monthly fee amount or percentage to be paid by the debtor; and

(3) the total amount of fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt management services agreement must also contain the following:

(1) a disclosure that if the amount of debt owed is increased by interest, late fees, over the limit fees, and other amounts imposed by the creditors, the length of the debt management services agreement will be extended and remain in force and that the total dollar charges agreed upon may increase at the rate agreed upon in the original contract agreement;

(2) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332A.11;

(3) a detailed description of all services to be performed by the debt management services provider for the debtor;

(4) the debt management services provider's refund policy; and

(5) the debt management services provider's principal business address and the name and address of its agent in this state authorized to receive service of process.

Subd. 4. **Prohibited terms.** The following terms shall not be included in the debt management services agreement:

(1) a hold harmless clause;

(2) a confession of judgment, or a power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceeding;

(3) a waiver of the right to a jury trial, if applicable, in any action brought by or against a debtor;

(4) an assignment of or an order for payment of wages or other compensation for services;

(5) a provision in which the debtor agrees not to assert any claim or defense arising out of the debt management services agreement;

(6) a waiver of any provision of this chapter or a release of any obligation required to be performed on the part of the debt management services provider; or

(7) a mandatory arbitration clause.

Subd. 5. **New debt management services agreements; modification of existing agreements.** (a) Separate and additional debt management services agreements that comply with this chapter may be entered into by the debt management services provider and the debtor provided that no additional initial fee may be charged by the debt management services provider.

(b) Any modification of an existing debt management services agreement, including any increase in the number or amount of debts included in the debt management services, must be in writing and signed by both parties. No fees, charges, or other consideration may be demanded from the debtor for

the modification, other than an increase in the amount of the monthly maintenance fee established in the original debt management services agreement.

Sec. 16. **[332A.11] RIGHT TO CANCEL.**

Subdivision 1. **Debtor's right to cancel.** A debtor has the right to cancel the debt management services agreement without cause at any time upon ten days' written notice to the debt management services provider. In the event of cancellation, the debt management services provider must, within ten days of the cancellation, notify the debtor's creditors of the cancellation and provide a refund of all unexpended funds paid by or for the debtor to the debt management services provider.

Subd. 2. **Notice of debtor's right to cancel.** A debt management services agreement must contain, on its face, in an easily readable typeface immediately adjacent to the space for signature by the debtor, the following notice: "Right To Cancel: You have the right to cancel this contract at any time on ten days' written notice."

Subd. 3. **Automatic termination.** Upon the payment of all listed debts and fees, the debt management services agreement must automatically terminate, and all unexpended funds paid by or for the debtor to the debt management services provider must be immediately returned to the debtor.

Subd. 4. **Debt management services provider's right to cancel.** A debt management services provider may cancel a debt management services agreement with good cause upon 30 days' written notice to the debtor. Within ten days after the cancellation, the debt management services provider must: (1) notify the debtor's creditors of the cancellation; and (2) return to the debtor all unexpended funds paid by or for the debtor.

Sec. 17. **[332A.12] BOOKS, RECORDS, AND INFORMATION.**

Subdivision 1. **Records retention.** Every registrant must keep, and use in the registrant's business, such books, accounts, and records, including electronic records, as will enable the commissioner to determine whether the registrant is complying with this chapter and of the rules, orders, and directives adopted by the commissioner under this chapter. Every registrant must preserve such books, accounts, and records for at least six years after making the final entry on any transaction recorded therein. Examinations of the books, records, and method of operations conducted under the supervision of the commissioner shall be done at the cost of the registrant. The cost must be assessed as determined under section 46.131.

Subd. 2. **Statements to debtors.** Each registrant must maintain and must make available records and accounts that will enable each debtor to ascertain the amounts paid to the creditors of the debtor. A statement showing amounts received from the debtor, disbursements to each creditor, amounts which any creditor has agreed to accept as payment in full for any debt owed the creditor by the debtor, charges deducted by the registrant, and such other information as the commissioner may prescribe, must be furnished by the registrant to the debtor at least monthly and, in addition, upon any cancellation or termination of the contract. In addition to the statements required by this subdivision, each debtor must have reasonable access, without cost, by electronic or other means, to information in the registrant's files applicable to the debtor. These statements, records, and accounts must otherwise remain confidential except for duly authorized state and government officials, the commissioner, the attorney general, the debtor, and the debtor's representative and designees. Each registrant must prepare and retain in the file of each debtor a written analysis of the debtor's income

and expenses to substantiate that the plan of payment is feasible and practicable.

Sec. 18. **[332A.13] FEES, PAYMENTS, AND CONSENT OF CREDITORS.**

Subdivision 1. **Origination fee.** The registrant may charge a nonrefundable origination fee of not more than \$50, which may be retained by the registrant from the initial amount paid by the debtor to the registrant.

Subd. 2. **Monthly maintenance fee.** The registrant may charge a periodic fee for account maintenance or other purposes, but only if the fee is reasonable for the services provided and does not exceed the lesser of 15 percent of the monthly payment amount or \$75.

Subd. 3. **Additional fees unauthorized.** A registrant may not impose any fee or other charge or receive any funds or other payment other than the initial fee or monthly maintenance fee authorized by this section.

Subd. 4. **Amount of periodic payments retained.** The registrant may retain as payment for the fees authorized by this section no more than 15 percent of any periodic payment made to the registrant by the debtor. The remaining 85 percent must be disbursed to listed creditors under and in accordance with the debt management services agreement. No fees or charges may be received or retained by the registrant for any handling of recurring payments. Recurring payments include current rent, mortgage, utility, telephone, maintenance as defined in section 518.27, child support, insurance premiums, and such other payments as the commissioner may by rule prescribe.

Subd. 5. **Advance payments.** No fees or charges may be received or retained for any payments by the debtor made more than the following number of days in advance of the date specified in the debt management services agreement on which they are due: (1) 42 days in the case of contracts requiring monthly payments; (2) 15 days in the case of agreements requiring biweekly payments; or (3) seven days in the case of agreements requiring weekly payments. For those agreements which do not require payments in specified amounts, a payment is deemed an advance payment to the extent it exceeds twice the average regular payment previously made by the debtor under that contract. This subdivision does not apply when the debtor intends to use the advance payments to satisfy future payment of obligations due within 30 days under the contract. This subdivision supersedes any inconsistent provision of this chapter.

Subd. 6. **Consent of creditors.** A registrant must actively seek to obtain the consent of all creditors to the debt management services plan set forth in the debt management services agreement. Consent by a creditor may be express and in writing, or may be evidenced by acceptance of a payment made under the debt management services plan set forth in the contract. The registrant must notify the debtor within ten days after any failure to obtain the required consent and of the debtor's right to cancel without penalty. The notice must be in a form as the commissioner shall prescribe. Nothing contained in this section is deemed to require the return of any origination fee and any fees earned by the registrant prior to cancellation or default.

Subd. 7. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt management services plan, or refuses to participate in a debt management services plan, the registrant must promptly notify the debtor of the withdrawal or refusal. In no case may this notice be provided more than 15 days after the debt management services plan learns of the creditor's decision to withdraw from or refuse to participate in a plan. This notice must include the identity of the creditor withdrawing from the plan, the amount of the monthly payment to that creditor, and the right of the

debtor to cancel the agreement under section 332A.11.

Subd. 8. **Payments held in trust.** The registrant must maintain a separate trust account and deposit in the account all payments received from the moment that they are received, except that the registrant may commingle the payment with the registrant's own property or funds, but only to the extent necessary to ensure the maintenance of a minimum balance if the financial institution at which the trust account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance. All disbursements, whether to the debtor or to the creditors of the debtor, or to the registrant, must be made from such account.

Subd. 9. **Timely payment of creditors.** The registrant must disburse any funds paid by or on behalf of a debtor to creditors of the consumer within 42 days after receipt of the funds, or earlier if necessary to comply with the due date in the contract between the debtor and the creditor, unless the reasonable payment of one or more of the debtor's obligations requires that the funds be held for a longer period so as to accumulate a sum certain, or where the debtor's payment is returned for insufficient funds or other reason that makes the withholding of such payments in the net interest of the debtor.

Sec. 19. **[332A.14] PROHIBITIONS.**

A registrant shall not:

- (1) purchase from a creditor any obligation of a debtor;
- (2) use, threaten to use, seek to have used, or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the debt management services agreement between the registrant and the debtor remains executory;
- (3) advise a debtor to stop paying a creditor until a debt management services plan is in place;
- (4) require as a condition of performing debt management services the purchase of any services, stock, insurance, commodity, or other property or any interest therein either by the debtor or the registrant;
- (5) compromise any debts unless the prior written approval of the debtor has been obtained to such compromise and unless such compromise inures solely to the benefit of the debtor;
- (6) receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;
- (7) lend money or provide credit to any debtor if any interest or fee is charged, or directly or indirectly collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other debtor service from a lender or service provider;
- (8) structure a debt management services agreement that would result in negative amortization of any debt in the plan;
- (9) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;
- (10) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other

compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management plan;

(11) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;

(12) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

(13) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;

(14) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or

(15) require or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution from the debtor.

Sec. 20. [332A.16] ADVERTISEMENT OF DEBT MANAGEMENT SERVICES PLANS.

No debt management services provider may make false, deceptive, misleading statements, or omissions about the rates, terms, or conditions of an actual or proposed debt management services plan or its debt management services, or create the likelihood of consumer confusion or misunderstanding regarding its services, including, but not limited to, the following:

(1) represent that the debt management services provider is a nonprofit, not-for-profit, or has similar status or characteristics if some or all of the debt management services will be provided by a for-profit company that is a controlling or affiliated party to the debt management services provider; or

(2) make any communication that gives the impression that the debt management services provider is acting on behalf of a government agency.

Sec. 21. [332A.17] DEBT MANAGEMENT SERVICES AGREEMENT RESCISSION.

Any debtor has the right to rescind any debt management services agreement with a debt management services provider that commits a material violation of this chapter. On rescission, all fees paid to the debt management services provider or any other person other than creditors of the debtor must be returned to the debtor entering into the debt management services agreement within ten days of rescission of the debt management services agreement.

Sec. 22. [332A.18] DEBT SETTLEMENT PROVIDER.

(a) No person shall engage in debt settlement services in this state without providing to the commissioner evidence of insurance in the amount of not less than \$100,000 against the risks of dishonesty, fraud, theft, and other misconduct on the part of the debt settlement provider or a director, employee, or agent of the debt settlement provider. The insurance shall be issued by an insurance

company authorized to do business in this state and rated at least A- by a nationally recognized rating organization. The insurance shall have no greater than a \$10,000 deductible. The insurance shall not be subject to cancellation by the debt settlement provider without a replacement policy in place.

(b) A debt settlement provider may not charge fees in the aggregate that exceed 15 percent of the principal amount of the debt. In the event of cancellation of the contract by the debtor prior to its successful completion, the debt settlement provider shall refund 50 percent of any collected fees for the settlement of debts remaining unsettled at the time of the termination of the contract.

(c) It shall be unlawful for a debt settlement provider to engage in acts prohibited by section 332A.14.

Sec. 23. [332A.19] ENFORCEMENT; REMEDIES.

Subdivision 1. **Violation a deceptive practice.** A violation of any of the provisions of this chapter is considered an unfair or deceptive trade practice under section 8.31, subdivision 1. A private right of action under section 8.31 by an aggrieved debtor is in the public interest.

Subd. 2. **Private right of action.** (a) A debt management services provider who fails to comply with any of the provisions of this chapter is liable under this section in an individual action for the sum of: (1) actual, incidental, and consequential damages sustained by the debtor as a result of the failure; and (2) statutory damages of up to \$1,000.

(b) A debt management services provider who fails to comply with any of the provisions of this chapter is liable under this section in a class action for the sum of: (1) the amount that each named plaintiff could recover under paragraph (a), clause (1); and (2) such amount as the court may allow for all other class members.

(c) In determining the amount of statutory damages, the court shall consider, among other relevant factors:

- (1) the frequency, nature, and persistence of noncompliance;
- (2) the extent to which the noncompliance was intentional; and
- (3) in the case of a class action, the number of debtors adversely affected.

(d) A plaintiff or class successful in a legal or equitable action under this section is entitled to the costs of the action, plus reasonable attorney fees.

Subd. 3. **Injunctive relief.** A debtor may sue a debt management services provider for temporary or permanent injunctive or other appropriate equitable relief to prevent violations of any provision of this chapter. A court must grant injunctive relief on a showing that the debt management services provider has violated any provision of this chapter, or in the case of a temporary injunction, on a showing that the debtor is likely to prevail on allegations that the debt management services provider violated any provision of this chapter.

Subd. 4. **Remedies cumulative.** The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

Subd. 5. **Public enforcement.** The attorney general shall enforce this chapter under section 8.31.

Sec. 24. **[332A.20] INVESTIGATION.**

The commissioner may examine the books and records of every debt settlement provider and registrant and of any person engaged in the business of providing debt management services as defined in section 332A.02 at any reasonable time. The commissioner once during any calendar year may require the submission of an audit prepared by a certified public accountant of the books and records of each registrant. If the registrant has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of this chapter and may require the attendance and sworn testimony of witnesses and the production of documents.

Sec. 25. **REPEALER.**

Minnesota Statutes 2006, sections 332.12; 332.13; 332.14; 332.15; 332.16; 332.17; 332.18; 332.19; 332.20; 332.21; 332.22; 332.23; 332.24; 332.25; 332.26; 332.27; 332.28; and 332.29, are repealed.

Sec. 26. **EFFECTIVE DATE.**

This act is effective January 1, 2008."

Delete the title and insert:

"A bill for an act relating to commerce; regulating the business of providing debt management services; providing enforcement powers, civil remedies, and criminal penalties; amending Minnesota Statutes 2006, sections 45.011, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 325E.311, subdivision 6; 325N.01; proposing coding for new law as Minnesota Statutes, chapter 332A; repealing Minnesota Statutes 2006, sections 332.12; 332.13; 332.14; 332.15; 332.16; 332.17; 332.18; 332.19; 332.20; 332.21; 332.22; 332.23; 332.24; 332.25; 332.26; 332.27; 332.28; 332.29."

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

Senator Scheid from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 1574: A bill for an act relating to commerce; regulating access devices; establishing liability for security breaches; providing enforcement powers; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

Delete everything after the enacting clause and insert:

"Section 1. **[325E.64] ACCESS DEVICES; BREACH OF SECURITY.**

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

(b) "Access device" means a card issued by a financial institution that contains a magnetic stripe, microprocessor chip, or other means for storage of information which includes, but is not limited to, a credit card, debit card, or stored value card.

(c) "Breach of the security of the system" has the meaning given in section 325E.61, subdivision 1, paragraph (d).

(d) "Card security code" means the three-digit or four-digit value printed on an access device or contained in the microprocessor chip or magnetic stripe of an access device which is used to validate access device information during the authorization process.

(e) "Financial institution" means any office of a bank, bank and trust, trust company with banking powers, savings bank, industrial loan company, savings association, credit union, or regulated lender.

(f) "Microprocessor chip data" means the data contained in the microprocessor chip of an access device.

(g) "Magnetic stripe data" means the data contained in the magnetic stripe of an access device.

(h) "PIN" means a personal identification code that identifies the cardholder.

(i) "PIN verification code data" means the data used to verify cardholder identity when a PIN is used in a transaction.

(j) "Service provider" means a person or entity that stores, processes, or transmits access device data on behalf of another person or entity.

Subd. 2. **Security or identification information; retention prohibited.** No person or entity conducting business in Minnesota that accepts an access device in connection with a transaction shall retain the card security code data, the PIN verification code data, or the full contents of any track of magnetic stripe data, subsequent to the completion of the transaction. A person or entity is in violation of this section if its service provider retains such data subsequent to the completion of the transaction. "Completion of the transaction" means the confirmation of initial payment posted to the person's or entity's account.

Subd. 3. **Liability.** Whenever there is a breach of the security of the system of a person or entity that has violated this section, or that person's or entity's service provider, that person or entity shall reimburse the financial institution that issued any access devices affected by the breach for the costs of reasonable actions undertaken by the financial institution as a result of the breach in order to protect the information of its cardholders or to continue to provide services to cardholders, including but not limited to, any cost incurred in connection with:

(1) the cancellation or reissuance of any access device affected by the breach;

(2) the closure of any deposit, transaction, share draft, or other accounts affected by the breach and any action to stop payments or block transactions with respect to the accounts;

(3) the opening or reopening of any deposit, transaction, share draft, or other accounts affected by the breach;

(4) any refund or credit made to a cardholder to cover the cost of any unauthorized transaction

relating to the breach; and

(5) the notification of cardholders affected by the breach.

Costs do not include any amounts recovered from a credit card company by a financial institution.

Subd. 4. **Remedies.** (a) A financial institution injured by a violation of the standards, duties, prohibitions, or requirements of this section may bring a private action under section 8.31, subdivision 3a. A private right of action by a financial institution under this chapter is in the public interest.

(b) The remedies provided in this section are cumulative and do not restrict any other right or remedy otherwise available to the financial institution.

Subd. 5. **Application.** A person or entity that processes fewer than 20,000 transactions by access device annually is not liable to a financial institution under this section."

Delete the title and insert:

"A bill for an act relating to commerce; regulating access devices; establishing liability for security breaches; providing enforcement powers; proposing coding for new law in Minnesota Statutes, chapter 325E."

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

Senator Prettner Solon from the Committee on Energy, Utilities, Technology and Communications, to which was re-referred

H.F. No. 532: A bill for an act relating to consumer protection; regulating certain contracts entered into by military service personnel; authorizing cancellations; requiring utilities to establish payment arrangements for military service personnel; proposing coding for new law in Minnesota Statutes, chapters 190; 325E; 325G.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Judiciary. Report adopted.

Senator Marty from the Committee on Health, Housing and Family Security, to which was referred

S.F. No. 900: A bill for an act relating to health; establishing the Long-Term Care Patient Access to Pharmaceuticals Act; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 151.

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 2006, section 151.19, subdivision 2, is amended to read:

Subd. 2. **Nonresident pharmacies.** The board shall require and provide for an annual nonresident special pharmacy registration for all pharmacies located outside of this state that

regularly dispense medications for Minnesota residents and mail, ship, or deliver prescription medications into this state. Nonresident special pharmacy registration shall be granted by the board upon the disclosure and certification by a pharmacy:

(1) that it is licensed in the state in which the dispensing facility is located and from which the drugs are dispensed;

(2) the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing drugs to residents of this state;

(3) that it complies with all lawful directions and requests for information from the Board of Pharmacy of all states in which it is licensed or registered, except that it shall respond directly to all communications from the board concerning emergency circumstances arising from the dispensing of drugs to residents of this state;

(4) that it maintains its records of drugs dispensed to residents of this state so that the records are readily retrievable from the records of other drugs dispensed;

(5) that it cooperates with the board in providing information to the Board of Pharmacy of the state in which it is licensed concerning matters related to the dispensing of drugs to residents of this state; ~~and~~

(6) that during its regular hours of operation, but not less than six days per week, for a minimum of 40 hours per week, a toll-free telephone service is provided to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patients' records; the toll-free number must be disclosed on the label affixed to each container of drugs dispensed to residents of this state; ~~and~~

(7) that, upon request of a resident of a long-term care facility located within the state of Minnesota, the resident's authorized representative, or a contract pharmacy or licensed health care facility acting on behalf of the resident, the pharmacy will dispense medications prescribed for the resident in unit-dose packaging or, alternatively, comply with the provisions of section 151.415, subdivision 5.

Sec. 2. [151.415] LONG-TERM CARE RESIDENT ACCESS TO PHARMACEUTICALS ACT.

Subdivision 1. **Title; citation.** This section may be cited as the "Long-Term Care Resident Access to Pharmaceuticals Act."

Subd. 2. **Definitions.** For the purposes of this section, the following terms have the meanings given them unless otherwise provided by text:

(a) "Board" means the Board of Pharmacy.

(b) "Contract pharmacy" means a pharmacy, licensed under this chapter, which is under contract to a long-term care facility.

(c) "Long-term care facility" means a nursing home licensed under sections 144A.02 to 144A.10, or a boarding care home licensed under sections 144.50 to 144.56. Facilities not certified under title XIX of the federal Social Security Act are not included in this definition.

(d) "Original dispensing pharmacy" shall mean a pharmacy, licensed in any state in the United States, which dispenses drugs in bulk prescription containers to a person who is a resident in a long-term care facility.

Subd. 3. **Authorization to administer and repackage drugs.** (a) A contract pharmacist or pharmacy may repackage a resident's prescription drugs, which have been lawfully dispensed from bulk prescription containers by an original dispensing pharmacy, into a unit-dose system compatible with the system used by the long-term care facility.

(b) A long-term care facility may administer drugs to residents of the facility that have been repackaged according to this subdivision. The contract pharmacy shall notify the long-term care facility whenever medications have been dispensed according to this subdivision and must certify that the repackaging and dispensing has been done in accordance with this subdivision.

(c) Drugs may be dispensed for a resident of a long-term care facility according to this subdivision, provided that:

(1) the drug is dispensed by the original dispensing pharmacy according to a current, valid prescription;

(2) the original bulk prescription container for the resident is delivered by the original dispensing pharmacy directly to the contract pharmacist or pharmacy;

(3) the contract pharmacist or pharmacy verifies the name and strength of the drug, the name of the manufacturer of the drug, the manufacturer's lot or control number, the manufacturer's expiration date for the drug, and the date the drug was dispensed by the original dispensing pharmacy;

(4) the contract pharmacist or pharmacy verifies the validity and accuracy of the current prescription order;

(5) the contract pharmacist or pharmacy repackages the drug in board-approved unit-dose packaging, with labeling that complies with Minnesota Rules, part 6800.6300, and that identifies that the drug has been repackaged according to this section;

(6) the resident for whom the medication is repackaged obtains medications from or receives medications at a discounted rate from the original dispensing pharmacy under the resident's state or federal health assistance program or a private health insurance plan; and

(7) the resident for whom the medication is to be repackaged, or the resident's authorized representative, has signed an informed consent form provided by the facility which includes an explanation of the repackaging process and which notifies the resident of the immunities from liability provided in this section.

Subd. 4. **Maintenance of records.** For each drug repackaged by a contract pharmacy under this section, the contract pharmacy shall maintain a record for at least two years of the following information:

(1) the name, manufacturer, manufacturer's lot number, manufacturer's expiration date, and quantity of the drug prescribed;

(2) the name and address of the resident for whom the drug was repackaged;

- (3) the name and address or other identifier of the prescriber;
- (4) the date the prescription was issued and the date the drug was repackaged;
- (5) the date the repackaged drug was delivered to the long-term care facility;
- (6) the directions for use;
- (7) a copy of the label that was affixed to the repackaged drug;
- (8) the initials of the packager;
- (9) the initials of the supervising pharmacist; and
- (10) the name and business address of the original dispensing pharmacy.

Subd. 5. **Duties of the original dispensing pharmacy.** Upon request of the resident, the resident's authorized representative, or a contract pharmacy or licensed health care facility acting on behalf of the resident, the original dispensing pharmacy is required to deliver medications dispensed for the resident directly to the contract pharmacist or pharmacy. The original dispensing pharmacy is further required to provide the contract pharmacist or pharmacy with the name and strength of the drug, the name of the manufacturer of the drug, the manufacturer's lot or control number, the manufacturer's expiration date for the drug, and the date the drug was dispensed.

Subd. 6. **Redispensing of returned drugs prohibited.** Unused drugs repackaged according to this section that are returned to any pharmacy shall not be redispensed.

Subd. 7. **Immunity from civil liability.** (a) A contract pharmacist or pharmacy and its employees or agents repackaging a drug acquired from an original dispensing pharmacy shall be immune from civil liability arising from harm caused by the drug due to acts or omissions of other persons outside of the contract pharmacist or pharmacy if the contract pharmacist or pharmacy properly repackages the drug according to this section.

(b) A long-term care facility and the facility's employees or agents who properly administer a drug repackaged by a contract pharmacist or pharmacy under this section shall be immune from civil liability arising from harm caused by the drug due to acts or omissions of other persons outside the long-term care facility.

Subd. 8. **Handling fee.** A contract pharmacist or pharmacy may charge a monthly fee of no more than 250 percent of the medical assistance program dispensing fee for each drug repackaged according to this section, but no more than \$100 per month for each individual resident."

Delete the title and insert:

"A bill for an act relating to health; establishing the Long-Term Resident Access to Pharmaceuticals Act; amending Minnesota Statutes 2006, section 151.19, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 151."

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

Senator Marty from the Committee on Health, Housing and Family Security, to which was

referred

S.F. No. 44: A bill for an act relating to health occupations; permitting certain foreign medical school graduates to use a credentials verification service; amending Minnesota Statutes 2006, section 147.037, subdivision 1.

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

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2006, section 147.02, subdivision 1, is amended to read:

Subdivision 1. **United States or Canadian medical school graduates.** The board shall issue a license to practice medicine to a person not currently licensed in another state or Canada and who meets the requirements in paragraphs (a) to (i).

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed an examination as described in clause (1) or (2).

(1) The applicant must have passed a comprehensive examination for initial licensure prepared and graded by the National Board of Medical Examiners, the Federation of State Medical Boards, the National Board of Medical Examiners, the Medical Council of Canada, or the appropriate state board that the board determines acceptable. The board shall by rule determine what constitutes a passing score in the examination.

(2) The applicant taking the United States Medical Licensing Examination (USMLE) must have passed steps one, two, and three ~~within a seven-year period. This seven-year period begins when the applicant first passes either step one or two, as applicable. Applicants actively enrolled in or graduated from accredited MD/PhD, MD/JD, MD/MBA, or MD/MPH dual-degree programs or osteopathic equivalents must have passed each of steps one, two, and three within three attempts in seven years plus the time taken to obtain the non-MD degree or ten years, whichever occurs first. Step three must be passed within five years of passing step two, or before the end of residency training.~~ The applicant must pass each of steps one, two, and three with passing scores as recommended by the USMLE program within three attempts. The applicant taking combinations of Federation of State Medical Boards, National Board of Medical Examiners, and USMLE may be accepted only if the combination is approved by the board as comparable to existing comparable examination sequences and all examinations are completed prior to the year 2000.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded. Upon application or notice of license renewal, the board must provide notice to the applicant and to the person whose license is scheduled to be issued or renewed of any additional fees, surcharges, or other costs which the person is obligated to pay as a condition of licensure. The notice must:

- (1) state the dollar amount of the additional costs; and
- (2) clearly identify to the applicant the payment schedule of additional costs.

(g) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(h) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (g). If the applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

(i) If the examination in paragraph (c) was passed more than ten years ago, the applicant must either:

(1) pass the special purpose examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(2) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada.

Sec. 2. Minnesota Statutes 2006, section 147.02, is amended by adding a subdivision to read:

Subd. 1b. **Examination extension; medical reasons.** The board may grant an extension to the time period and to the number of attempts permitted to pass the United States Medical Licensing Examination (USMLE) as specified in subdivision 1, paragraph (c), clause (2), if an applicant has been diagnosed with a medical illness during the process of taking the USMLE but before passage of all steps, or fails to pass a step within three attempts due to the applicant's medical illness. Proof of the medical illness must be submitted to the board on forms and according to the timelines of the board.

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "changing a medical practice licensing provision for United States or Canadian medical school graduates; modifying the time period in which applicants applying for a license to practice medicine must take and pass the United States Medical Licensing

Examination;"

Amend the title numbers accordingly

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

Senator Marty from the Committee on Health, Housing and Family Security, to which was referred

S.F. No. 445: A bill for an act relating to occupations and professions; modifying provisions for individuals operating x-ray equipment; amending Minnesota Statutes 2006, section 144.121, subdivision 5, by adding subdivisions.

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

Page 1, line 16, before "After" insert "(a)"

Page 2, line 9, after the period, insert "The commissioner shall issue a certificate to examinees who pass an approved examination."

Page 2, after line 9, insert:

"(b) Individuals who have met current regulations to operate x-ray equipment prior to January 1, 2008, in a facility with x-ray equipment for use on humans that is registered under subdivision 1, shall not be required to take a national examination as required in paragraph (a)."

Page 2, line 23, delete "They" and insert "The operator"

Page 2, delete section 4 and insert:

"Sec. 4. Minnesota Statutes 2006, section 144.121, is amended by adding a subdivision to read:

Subd. 5c. **Exemptions.** X-ray machine operators who have met current regulations promulgated by the commissioner prior to January 1, 2008, are exempt from the requirements of subdivisions 5 to 5e, but must meet the continuing education requirements provided in subdivision 5f. Subdivisions 5 to 5f of this section do not apply to dental hygienists, registered dental assistants, certified registered nurse anesthetists, physicians assistants, and individuals that are licensed in the state of Minnesota to practice medicine, osteopathy, chiropractics, podiatry, and dentistry."

Page 3, delete section 6 and insert:

"Sec. 6. Minnesota Statutes 2006, section 144.121, is amended by adding a subdivision to read:

Subd. 5e. **Variance of scope of practice.** The commissioner may grant a variance according to Minnesota Rules, parts 4717.7000 to 4717.7050, to a facility for the scope of practice of an x-ray operator in cases where the delivery of health care would otherwise be compromised if a variance were not granted. The request for a variance must be in writing, state the circumstances that constitute hardship, state the period of time the facility wishes to have the variance for the scope of practice in place, and state the alternative measures that will be taken if the variance is granted. The commissioner shall set forth in writing the reasons for granting or denying the variance. Variances granted by the commissioner specify in writing the time limitation and required alternative measures to be taken by the facility. A request for the variance shall be denied if the commissioner finds the

circumstances stated by the facility do not support a claim of hardship, the requested time period for the variance is unreasonable, the alternative measures proposed by the facility are not equivalent to the scope of practice, or the request for the variance is not submitted to the commissioner in a timely manner.

Sec. 7. Minnesota Statutes 2006, section 144.121, is amended by adding a subdivision to read:

Subd. 5f. **Continuing education requirements.** The commissioner shall approve continuing education programs for limited x-ray operators that offer x-ray specific courses, including, but not limited to, courses offered online. A limited x-ray operator shall complete four hours of continuing education during every two-year period and pay a \$20 fee every two years in order to remain certified. The first two-year period ends January 1, 2010. A limited x-ray operator who is out of compliance shall be given three months to comply with this subdivision. After that three-month period, an individual who is out of compliance shall be required to take an examination, as provided in subdivision 5, in order to be recertified."

Page 3, line 22, delete "6" and insert "7"

Renumber the sections in sequence

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

Senator Marty from the Committee on Health, Housing and Family Security, to which was referred

S.F. No. 2056: A bill for an act relating to health; requiring state standards on atrazine levels to meet the federal standards; 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. [144.355] WATER LEVEL STANDARD FOR ATRAZINE.

(a) The Department of Health in consultation with the Pollution Control Agency and the Department of Agriculture shall set drinking water standards for the health risk limit of atrazine in private wells and the maximum contaminant level in public water systems at 3 ppb to comply with the federal standard determined by the United States Environmental Protection Agency.

(b) By December 31, 2007, the Department of Health in consultation with the Pollution Control Agency and the Department of Agriculture shall set the drinking water standards for the health risk limit of atrazine in private wells and the maximum contaminant level of atrazine in public water systems. If the level set by the department is greater than 1 ppb, the commissioner shall provide evidence to show that the standards reflect the requirements in section 144.0751 to adequately protect the health of a developing fetus, infant, and child which requires a higher level of care due to fetal, infant, and child development.

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

And when so amended the bill do pass and be re-referred to the Committee on Agriculture and

Veterans. Amendments adopted. Report adopted.

Senator Marty from the Committee on Health, Housing and Family Security, to which was re-referred

S.F. No. 1197: A bill for an act relating to health; requiring medical assistance to cover doula services; establishing a doula registry; ensuring in the patient bill of rights the presence of a doula if requested by a patient; amending Minnesota Statutes 2006, sections 144.651, subdivisions 9, 10; 256B.0625, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 146B.

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

Page 4, line 2, delete "3" and insert "2"

Page 4, line 25, delete "section 62A.0412, subdivision 4" and insert "section 146B.01, subdivision 2"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 739, 1464 and 44 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Clark moved that the name of Senator Olson, M. be added as a co-author to S.F. No. 2173. The motion prevailed.

Senator Prettner Solon moved that the name of Senator Dibble be added as a co-author to S.F. No. 2219. The motion prevailed.

Senator Pogemiller, for Senator Scheid, moved that S.F. No. 1429 be withdrawn from the Committee on Transportation and re-referred to the Committee on Commerce and Consumer Protection. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of the Calendar.

CALENDAR

S.F. No. 493: A bill for an act relating to public nuisances; providing that certain criminal gang behavior is a public nuisance; authorizing injunctive relief and other remedies; proposing coding for new law in Minnesota Statutes, chapter 617.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Langseth	Olson, M.	Sheran
Bakk	Foley	Larson	Pappas	Sieben
Betzold	Frederickson	Latz	Pariseau	Skoe
Bonoff	Gerlach	Limmer	Pogemiller	Skogen
Carlson	Gimse	Lourey	Prettner Solon	Sparks
Chaudhary	Hann	Lynch	Rest	Stumpf
Clark	Higgins	Marty	Robling	Tomassoni
Cohen	Ingebrigtsen	Metzen	Rosen	Torres Ray
Day	Johnson	Michel	Rummel	Vickerman
Dibble	Jungbauer	Moua	Saltzman	Wergin
Dille	Koch	Neuville	Saxhaug	Wiger
Doll	Koering	Olseen	Scheid	
Erickson Ropes	Kubly	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

S.F. No. 1236: A bill for an act relating to state employees; making technical and housekeeping changes; amending Minnesota Statutes 2006, sections 43A.191, subdivision 3; 43A.23, subdivision 1.

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	Fischbach	Langseth	Olson, G.	Senjem
Bakk	Foley	Larson	Olson, M.	Sheran
Betzold	Frederickson	Latz	Pappas	Sieben
Bonoff	Gerlach	Limmer	Pariseau	Skoe
Carlson	Gimse	Lourey	Pogemiller	Skogen
Chaudhary	Hann	Lynch	Prettner Solon	Sparks
Clark	Higgins	Marty	Rest	Stumpf
Cohen	Ingebrigtsen	Metzen	Robling	Tomassoni
Day	Johnson	Michel	Rosen	Torres Ray
Dibble	Jungbauer	Moua	Rummel	Vandevor
Dille	Koch	Murphy	Saltzman	Vickerman
Doll	Koering	Neuville	Saxhaug	Wergin
Erickson Ropes	Kubly	Olseen	Scheid	Wiger

So the bill passed and its title was agreed to.

S.F. No. 1048: A bill for an act relating to state government; changing the state Indian Affairs Council; amending Minnesota Statutes 2006, section 3.922.

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 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Carlson	Day	Erickson Ropes	Gerlach
Bakk	Chaudhary	Dibble	Fischbach	Gimse
Betzold	Clark	Dille	Foley	Hann
Bonoff	Cohen	Doll	Frederickson	Higgins

Ingebrigtsen	Limmer	Olseen	Rosen	Skogen
Johnson	Lourey	Olson, G.	Rummel	Sparks
Jungbauer	Lynch	Olson, M.	Saltzman	Stumpf
Koch	Marty	Pappas	Saxhaug	Tomassoni
Koering	Metzen	Pariseau	Scheid	Vandever
Kubly	Michel	Pogemiller	Senjem	Vickerman
Langseth	Moua	Prettner Solon	Sheran	Wergin
Larson	Murphy	Rest	Sieben	Wiger
Latz	Neuville	Robling	Skoe	

So the bill passed and its title was agreed to.

S.F. No. 837: A bill for an act relating to local government; Hennepin and Wright Counties; authorizing the Hennepin County Board and the Wright County Board to initiate a process for the change of county boundaries by resolution.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Latz	Pariseau	Skoe
Bakk	Gerlach	Limmer	Pogemiller	Skogen
Betzold	Gimse	Lourey	Prettner Solon	Sparks
Carlson	Hann	Marty	Rest	Stumpf
Chaudhary	Higgins	Metzen	Robling	Tomassoni
Clark	Ingebrigtsen	Michel	Rosen	Torres Ray
Cohen	Johnson	Moua	Rummel	Vandever
Day	Jungbauer	Murphy	Saltzman	Vickerman
Dibble	Koch	Neuville	Saxhaug	Wergin
Dille	Koering	Olseen	Scheid	Wiger
Doll	Kubly	Olson, G.	Senjem	
Erickson Ropes	Langseth	Olson, M.	Sheran	
Fischbach	Larson	Pappas	Sieben	

So the bill passed and its title was agreed to.

S.F. No. 753: A bill for an act relating to elections; permitting appointment of election judges not affiliated with a major political party; amending Minnesota Statutes 2006, sections 204B.21, subdivision 2; 205.075, by adding a subdivision; 205A.10, subdivision 2.

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 57 and nays 6, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Kubly	Olseen	Scheid
Bakk	Erickson Ropes	Langseth	Olson, M.	Senjem
Betzold	Foley	Larson	Pappas	Sheran
Bonoff	Frederickson	Latz	Pariseau	Sieben
Carlson	Gerlach	Lourey	Pogemiller	Skoe
Chaudhary	Higgins	Lynch	Prettner Solon	Skogen
Clark	Ingebrigtsen	Marty	Rest	Sparks
Cohen	Johnson	Metzen	Rosen	Stumpf
Day	Jungbauer	Michel	Rummel	Tomassoni
Dibble	Koch	Moua	Saltzman	Torres Ray
Dille	Koering	Murphy	Saxhaug	Vickerman

Wergin

Wiger

Those who voted in the negative were:

Fischbach	Limmer	Robling
Hann	Neuville	Vandever

So the bill passed and its title was agreed to.

S.F. No. 1696: A bill for an act relating to energy; specifying criteria for affordability programs for low-income residential customers; amending Minnesota Statutes 2006, section 216B.16, subdivision 15.

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	Fischbach	Langseth	Olson, G.	Senjem
Bakk	Foley	Larson	Olson, M.	Sheran
Betzold	Frederickson	Latz	Pappas	Sieben
Bonoff	Gerlach	Limmer	Pariseau	Skoe
Carlson	Gimse	Lourey	Pogemiller	Skogen
Chaudhary	Hann	Lynch	Prettner Solon	Sparks
Clark	Higgins	Marty	Rest	Stumpf
Cohen	Ingebrigtsen	Metzen	Robling	Tomassoni
Day	Johnson	Michel	Rosen	Torres Ray
Dibble	Jungbauer	Moua	Rummel	Vandever
Dille	Koch	Murphy	Saltzman	Vickerman
Doll	Koering	Neuville	Saxhaug	Wergin
Erickson Ropes	Kubly	Olseen	Scheid	Wiger

So the bill passed and its title was agreed to.

S.F. No. 1335: A bill for an act relating to utilities; modifying conditions for disconnecting and reconnecting utility service; amending Minnesota Statutes 2006, section 216B.097, subdivisions 1, 3.

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 63 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Langseth	Olson, G.	Sheran
Bakk	Foley	Larson	Olson, M.	Sieben
Betzold	Frederickson	Latz	Pappas	Skoe
Bonoff	Gerlach	Limmer	Pariseau	Skogen
Carlson	Gimse	Lourey	Pogemiller	Sparks
Chaudhary	Hann	Lynch	Prettner Solon	Stumpf
Clark	Higgins	Marty	Rest	Tomassoni
Cohen	Ingebrigtsen	Metzen	Robling	Torres Ray
Day	Johnson	Michel	Rosen	Vandever
Dibble	Jungbauer	Moua	Rummel	Vickerman
Dille	Koch	Murphy	Saltzman	Wiger
Doll	Koering	Neuville	Scheid	
Erickson Ropes	Kubly	Olseen	Senjem	

Those who voted in the negative were:

Wergin

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and Reports of Committees.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 946:

H.F. No. 946: A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities; providing for fund transfers, general contingent accounts, tort claims, and state land sales; authorizing sale and issuance of trunk highway bonds for highways and transit facilities; modifying motor fuels and registration taxes; allocating motor vehicle sales tax revenue; modifying county state-aid allocation formula; modifying county wheelage tax; authorizing local transportation sales and use taxes; modifying provisions relating to various transportation-related funds and accounts; modifying fees for license plates, drivers' licenses, identification cards, and state patrol escort and flight services; prohibiting future toll facilities; making technical and clarifying changes; amending Minnesota Statutes 2006, sections 16A.88; 161.04, subdivision 3, by adding a subdivision; 162.06; 162.07, subdivision 1, by adding subdivisions; 163.051; 168.011, subdivision 6; 168.013, subdivisions 1, 1a; 168.017, subdivision 3; 168.12, subdivision 5; 168A.29, subdivision 1; 171.02, subdivision 3; 171.06, subdivision 2; 171.07, subdivisions 3a, 11; 171.20, subdivision 4; 296A.07, subdivision 3; 296A.08, subdivision 2; 297A.94; 297B.09, subdivision 1; 299D.09; 473.388, subdivision 4; 473.446, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 160; 297A; repealing Minnesota Statutes 2006, section 174.32.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Lieder, Hornstein, Hortman, Morrow and Erhardt have been appointed as such committee on the part of the House.

House File No. 946 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 11, 2007

Senator Murphy moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 946, and that a Conference Committee of 5 members be appointed by the

Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Wiger from the Committee on Education, to which was referred

S.F. No. 2064: A bill for an act relating to education; establishing a task force to review special education funding.

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

Page 1, line 5, after "ON" insert "SPECIAL" and delete "FUNDING"

Page 1, line 8, delete "funding"

Page 1, line 13, delete "12" and insert "16"

Page 1, line 14, before the period, insert "by July 1, 2007"

Page 1, line 17, after "shall" insert "convene the first meeting and"

Page 1, line 18, after the period, insert "The task force must include four senators appointed by the respective chairpersons, including one minority and one majority member of the education policy committee and one minority and one majority member of the E-12 education finance budget division."

Amend the title as follows:

Page 1, line 3, delete "funding"

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight. Amendments adopted. Report adopted.

Senator Wiger from the Committee on Education, to which was referred

S.F. No. 1642: A bill for an act relating to education; establishing a six-year pilot program to examine the impact of school calendar arrangements on student learning; appropriating money.

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

Page 1, line 5, delete "ALTERNATIVE"

Page 1, line 8, delete "alternative"

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

Senator Wiger from the Committee on Education, to which was referred

S.F. No. 1439: A bill for an act relating to education; appropriating money for character development.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Wiger from the Committee on Education, to which was referred

S.F. No. 2011: A bill for an act relating to education; directing the education commissioner to report summary data on student performance and other student information; amending Minnesota Statutes 2006, section 120B.36, subdivision 1.

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 2006, section 120B.36, subdivision 1, is amended to read:

Subdivision 1. **School performance report cards.** (a) The commissioner shall use objective criteria based on levels of student performance to identify four to six designations applicable to high and low performing public schools. The objective criteria shall include at least student academic performance, school safety, and staff characteristics, with a value-added growth component added by the 2006-2007 school year.

(b) The commissioner shall develop, annually update, and post on the department Web site school performance report cards. A school's designation must be clearly stated on each school performance report card.

(c) The commissioner must make available the first school designations and school performance report cards by November 2003, and during the beginning of each school year thereafter.

(d) A school or district may appeal in writing a designation under this section to the commissioner within 30 days of receiving the designation. The commissioner's decision to uphold or deny an appeal is final.

(e) School performance report cards are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in paragraph (d) concludes. The department shall annually post school performance report cards to its public Web site no later than September 1.

(f) The commissioner must make summary data available on students who do not pass one or more of the state's required Graduation-Required Assessment for Diploma (GRAD) tests and do not receive a diploma as a consequence, and categorizes these data according to gender, race, eligibility for free or reduced lunch, and English language proficiency.

EFFECTIVE DATE. This section is effective for the 2007-2008 school year and later."

Delete the title and insert:

"A bill for an act relating to education; directing the education commissioner to report summary data on student performance; amending Minnesota Statutes 2006, section 120B.36, subdivision 1."

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

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

S.F. No. 2103: A bill for an act relating to environment; modifying provisions for regulating genetically engineered organisms; requiring a study; amending Minnesota Statutes 2006, sections 116C.92; 116C.94, subdivision 1; 116C.97, subdivision 2.

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

Page 3, line 4, delete "identified" and insert "potential"

Page 3, line 5, delete "genetic" and insert "genetically engineered"

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

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

S.F. No. 1196: A bill for an act relating to manufactured homes; requiring relocation compensation for displaced residents; amending Minnesota Statutes 2006, section 327C.095, subdivision 4.

Reports the same back with the recommendation that the bill be re-referred to the Committee on Health, Housing and Family Security without recommendation. Report adopted.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 966: Senators Anderson, Erickson Ropes and Koering.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate

proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Marty, Prettner Solon, Sieben and Torres Ray introduced—

S.F. No. 2222: A bill for an act relating to taxation; individual income; modifying rates and directing revenue to the children's health security account; amending Minnesota Statutes 2006, sections 290.06, subdivision 2c; 290.62.

Referred to the Committee on Taxes.

Senator Pappas introduced—

S.F. No. 2223: A bill for an act relating to liquor; modifying sales provisions governing the State Fairgrounds; amending Minnesota Statutes 2006, section 37.21, subdivision 2.

Referred to the Committee on Commerce and Consumer Protection.

Senator Clark introduced—

S.F. No. 2224: A bill for an act relating to powers of attorney; creating an alternative statutory short form for military members who are in active service; amending Minnesota Statutes 2006, sections 523.02; 523.131; 523.16; 523.20; 523.21; 523.23, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 523.

Referred to the Committee on Judiciary.

Senator Ingebrigtsen introduced—

S.F. No. 2225: A bill for an act relating to taxation; authorizing Douglas County to impose a sales and use tax.

Referred to the Committee on Taxes.

Senator Vickerman introduced—

S.F. No. 2226: A bill for an act relating to state government; clarifying private cemeteries; amending Minnesota Statutes 2006, section 307.08.

Referred to the Committee on State and Local Government Operations and Oversight.

Senators Frederickson, Vickerman and Kubly introduced—

S.F. No. 2227: A bill for an act relating to capital investment; appropriating money for the MERIT Center in Marshall; authorizing the issuance of general obligation bonds.

Referred to the Committee on Finance.

Senator Doll introduced—

S.F. No. 2228: A bill for an act relating to public safety; regulating salvage certificates of title and certain vehicles being dismantled or destroyed; requiring electronic notification; amending Minnesota Statutes 2006, sections 168A.151, subdivision 1; 168A.153.

Referred to the Committee on Transportation.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of General Orders.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Metzen in the chair.

After some time spent therein, the committee arose, and Senator Metzen reported that the committee had considered the following:

S.F. Nos. 1363, 1098, 1396 and 1017, which the committee recommends to pass.

On motion of Senator Betzold, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Reports of Committees.

REPORTS OF COMMITTEES

Senator Betzold moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred

S.F. No. 2161: A bill for an act relating to real property; providing for plats of land; amending Minnesota Statutes 2006, sections 505.01; 505.03, subdivision 1; 505.04; 505.08, subdivisions 2, 3; 505.1792, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 505; repealing Minnesota Statutes 2006, sections 505.02; 505.08, subdivisions 1, 2a.

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 2006, section 505.01, is amended to read:

505.01 PLATS, DONATIONS, PURPOSE, DEFINITIONS.

Subdivision 1. **Donations.** Plats of land may be made in accordance with the provisions of this chapter, and, when so made and recorded, every donation of a park to the public ~~or any person or corporation noted thereon~~ shall operate to convey the fee of all land so donated, for the uses and purposes named or intended, with the same effect, upon the donor and the donor's heirs, and in favor of the donee, as though such land were conveyed by warranty deed. Land donated for any public use in any municipality shall be held in the corporate name in trust for the purposes set forth or intended. A street, road, alley, trail, and other public way dedicated or donated on a plat shall convey an easement only. Easements dedicated or donated on a plat shall convey an easement only.

Subd. 2. **Purpose.** A plat prepared and recorded in accordance with this chapter may be used to:

(1) indicate the dedication of easements for public ways, utility easements, and drainage easements as necessary for orderly development;

(2) depict one or more parcels for the purpose of simplifying legal descriptions; or

(3) comply with minor subdivision procedures of a local unit of government.

Subd. 3. **Definitions.** (a) "Block" means a tract of land consisting of one or more lots, as identified on the plat, and bounded by plat boundaries, public ways, outlots, parks, or bodies of water.

(b) "Drainage easement" means an easement for the purpose of controlling, preserving, and providing for the flow or storage of water.

(c) "Lot" means a tract of land which is all or part of a block and is identified on the plat.

(d) "Minor subdivision procedure" means an approval process that a local unit of government may adopt under this chapter for simple land divisions.

(e) "Outlot" means a tract of land identified by a capital letter and is land that may not be part of a block.

(f) "Plat" means a delineation of one or more existing parcels of land drawn to scale showing all data as required by this chapter, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways.

(g) "Plat monument" means a durable magnetic marker placed at all locations required by this chapter or other locations as shown on the plat.

(h) "Public way" means a thoroughfare or cul-de-sac which provides ingress and egress to the public.

(i) "Survey line" means a monumented reference line that is not a boundary.

(j) "Utility easement" means an easement conveyed, granted, or dedicated to the public for utility purposes.

(k) "Water boundary" means the shore or margin of lakes, ponds, rivers, creeks, streams, drainage

ditches, or swamps.

(l) "Wetland" means all rivers, streams, creeks, drainage ditches, lakes, ponds, and swamps.

(m) "Witness monument" means a plat monument placed at an identified distance and direction from a corner that is in a physical location that is not practical to monument.

Sec. 2. [505.021] PLAT CONTENTS; SURVEY; COUNTY SURVEYOR APPROVAL.

Subdivision 1. **Plat format.** A plat shall be prepared on four mil transparent reproducible film or the equivalent, and shall be prepared by a photographic process. Plat sheet size shall be 22 inches by 34 inches. A border line shall be placed one-half inch inside the outer edge of the plat on the top and bottom 34-inch sides; and the right 22-inch side; and two inches inside the outer edge of the plat on the left 22-inch side. If a plat consists of more than one sheet, the sheets shall be numbered consecutively.

Subd. 2. **Plat name; legal description; dedication statement.** The plat name shall appear across the top portion of the plat and in the dedication paragraph of the plat and shall not duplicate or be similar to the name of any plat that is in the office of the county recorder or registrar of titles in the county in which the land is located. The plat name shall be in capital letters in all locations that the name appears on the plat. The plat shall contain a complete and accurate description of each tract of land being platted and a dedication statement describing what part of the land is dedicated, to whom, and for what purpose. In the event of a discrepancy between the plat name stated in the dedication statement and the plat name appearing in other portions of the plat, the name in the dedication statement shall control.

Subd. 3. **Ownership interest; acknowledgment.** The names and signatures of all fee owners, contract for deed vendees, and mortgage holders of record of the land being platted shall appear on the plat, together with a statement as to their interest. The marital status of individual owners shall appear on the plat. Entities shall identify the specific type of entity and the jurisdiction in which the entity is organized. Agents or officers for an entity shall state their position with the entity. A mortgage holder may consent to the plat by a written acknowledged statement in lieu of the mortgage holder's name and signature appearing on the plat. If a mortgage holder is included on the plat, the plat shall be signed by an authorized representative. If a certificate of notarial act on a plat includes the jurisdiction of the notarial act, the name of the notarial officer, the title of the notarial officer, and the date the notary commission expires, printed in pen and ink or typewritten on the plat, a plat shall be recorded regardless of whether a notary stamp was used or was illegible if used.

Subd. 4. **Boundary; lots; blocks; outlots.** Plat boundaries shall be designated on the plat in accordance with the underlying legal description and survey. All lots in each block shall be numbered consecutively with Arabic numerals beginning with the numeral 1. All blocks shall be numbered consecutively with Arabic numerals beginning with numeral 1. All outlots shall be labeled OUTLOT in capital letters and lettered consecutively in capital letters beginning with the letter "A." All lot, block, and outlot lines shall be drawn as a solid line. The name and adjacent boundary line of any adjoining platted lands shall be dotted on the plat.

Subd. 5. **Mathematical data; dimensions; labels; symbols.** A plat shall show all survey and mathematical information and data necessary to locate and retrace all boundary lines and monuments. Bearings, azimuths, and central angles shall be expressed in degrees, minutes, and seconds and labeled with the respective symbols. A north arrow and directional orientation note

shall be shown. Distances shall be expressed in feet and hundredths of a foot. All straight line segments of the plat shall be labeled with the length of the line and bearing or azimuth. All curved line segments of the plat shall be labeled with the central angle, arc length, and radius length. If any curve is nontangential the dimensions shall include a long chord bearing or azimuth, and shall be labeled nontangential. The mathematical closure tolerance of the plat boundary, blocks, lots, and outlots shall not exceed 2/100 of a foot. A graphics scale shall be shown along with the label "Scale In Feet." Dimension and descriptive recitals in the legal description shown on the plat shall be depicted and labeled on the graphic portion of the plat. A symbol shall indicate the position of all found and set plat monuments, along with a description of each. Ditto marks and foot and inch symbols shall not be used.

Subd. 6. **Public ways.** All public ways within the plat, whether existing at the time of platting or being dedicated by the plat shall be depicted on the plat together with the name and sufficient mathematical data to locate the position and width of the public way. The location of all existing public ways adjacent to the plat boundary shall be depicted on the plat as dashed lines. The name and width of the adjacent public ways shall be shown, if known.

Subd. 7. **Easements.** All easements to be dedicated on the plat shall be depicted on the plat with purpose, identification, and sufficient mathematical data to locate the boundaries of the easements. Easements created on the plat shall be limited to public utility and/or drainage easements as defined in section 505.01, subdivision 3, paragraphs (b), (h), and (j). Easement boundaries shall be shown as dashed lines. Temporary easements, building setback information, and building floor elevations shall not be shown on a plat.

Subd. 8. **Water boundaries.** Any water boundary abutting or lying within the plat boundaries shall be shown and identified on the plat as a solid line delineating the then existing shore line. When any parcel depicted on the plat includes water as a boundary, a dashed survey line shall be shown and labeled with sufficient mathematical data to compute a closure of said parcel. Distances shall be shown between the survey line and the water boundary at all angle points, lot and boundary lines. Plat monuments shall be set at all locations where the survey line intersects a plat boundary line or block, lot or outlot line. The water elevation of any lake, stream, or river depicted on the plat shall be shown to the tenth of a foot along with the date the elevation was measured. All elevations shall be referenced to a durable benchmark described on the plat together with its general location shown and benchmark elevation to the hundredth of a foot. If a mean sea level adjusted datum benchmark is available within two miles of the land being platted, all elevations shall be referenced to the datum. The highest known water elevation shall be indicated on the plat if the data is available from the Department of Natural Resources, the United States Army Corps of Engineers, or another appropriate governmental unit. All wetlands as defined in section 505.01, subdivision 3, paragraph (l), shall be shown on the plat.

Subd. 9. **Certifications.** (a) A plat shall contain a certification by the land surveyor who surveyed or directly supervised the survey of the land being platted, and prepared the plat or directly supervised the plat preparation. The certificate shall state that:

- (1) the plat is a correct representation of the boundary survey;
- (2) all mathematical data and labels are correctly designated on the plat;
- (3) all monuments depicted on the plat have been or will be correctly set within one year as indicated on the plat;

(4) all water boundaries and wetlands as of the date of the surveyor's certification are shown and labeled on the plat; and

(5) all public ways are shown and labeled on the plat.

The surveyor's certification shall be properly acknowledged by the surveyor on the plat before a notarial officer.

(b) A plat shall contain a certification of approval executed by the local elected governmental unit or an authorized official designated by the local elected governmental unit.

(c) In any county that requires review and approval of plats by the county surveyor or another land surveyor, the plat shall contain a certification of approval executed by the county surveyor or land surveyor that this plat is in compliance with this section.

(d) A plat shall contain a certification by the proper county official that there are no delinquent taxes owed and that the current year's payable taxes have been paid in accordance with section 272.12.

(e) A plat shall contain a certification of recording by the county recorder or registrar of titles, or both, if the plat contains both nonregistered and registered property.

Subd. 10. **Survey.** The land surveyor that certifies the plat shall survey or directly supervise the survey of the land depicted on the plat. Plat monuments shall be set at all angle and curve points on the outside boundary lines of the plat prior to recording. Interior block, lot, and witness monuments shall be set within one year after recording the plat. A financial guarantee may be required for the placement of monuments. If it is impracticable to set a plat monument, a witness plat monument shall be set. The license number of the land surveyor that certifies the plat shall be affixed to all set plat monuments.

Subd. 11. **County surveyor approval.** All plats prepared for recording in accordance with this section are subject to approval by the county surveyor in accordance with section 389.09, subdivision 1, and/or as authorized by their respective county board of commissioners.

Sec. 3. Minnesota Statutes 2006, section 505.03, subdivision 1, is amended to read:

Subdivision 1. **Plat formalities City, town, and county approval.** On the plat shall be written an instrument of dedication, which shall be signed and acknowledged by the owner of the land. All signatures on the plat shall be written with black ink (not ball point). The instrument shall contain a full and accurate description of the land platted and set forth what part of the land is dedicated, and also to whom, and for what purpose these parts are dedicated. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been or will be correctly placed in the ground as shown or stated, and that the outside boundary lines are correctly designated on the plat. If there are no wetlands or public highways to be designated in accordance with section 505.02, the surveyor shall so state. The certificate shall be sworn to before any officer authorized to administer an oath. The plat Plats shall, except in cities whose charters provide for official supervision of plats by municipal officers or bodies, together with an abstract and certificate of title, be presented for approval to the council of the city or town board of towns wherein there reside over 5,000 people in which the land is located; and, if the land is located outside the limits of any city, or such town, then to the board of county commissioners of the county in which the land is located. Plats that subdivide land

are subject to the approval of the elected body of the local governmental units exercising authority over the subdivision of the land. Plats that only delineate existing parcels or comply with a minor subdivision procedure may be approved by a local government official designated by the governing body of the local governmental unit exercising authority over the subdivision of land.

Sec. 4. Minnesota Statutes 2006, section 505.04, is amended to read:

505.04 REAL ESTATE TAXES; RECORDING; COPIES.

Every plat, when duly certified, signed, and acknowledged, as provided in section 505.03 505.021, and upon presentation of a certificate from the ~~county treasurer~~ authorized county official that the current year's taxes have been paid, shall be ~~filed and~~ recorded in the office of the county recorder or registrar of titles, or both, if the plat contains both nonregistered and registered property. An exact transparent reproducible copy shall, at the discretion of the county recorder or registrar of titles, be provided to the county recorder or registrar of titles, or both, if the plat contains both nonregistered and registered property. The official plat shall be labeled "OFFICIAL PLAT" and any copy shall be labeled "copy." The official plat and any copy shall be placed under the direct supervision of the county recorder or registrar of titles, or both, if the plat contains both nonregistered and registered property and be open to inspection by the public. In counties having a full-time county surveyor who operates an office on a full-time basis, the exact copy may be placed under the direct supervision of the county surveyor and be open to inspection by the public. Upon request of the county auditor of the county wherein the land is situated, the county recorder or registrar of titles shall cause a reproduction copy of the official plat, or of the exact copy, to be made and filed with the county auditor, at the expense of the county.

Sec. 5. Minnesota Statutes 2006, section 505.08, subdivision 2, is amended to read:

Subd. 2. **Public certified copies.** The copies of the official plat or of the exact reproducible copy shall be compared and certified to by the county recorder or registrar of titles in the manner in which certified copies of records are issued in the recorder's or registrar's office, and the copy thereof shall be ~~bound in a proper volume~~ for the use of the general public and anyone shall have access to and may inspect such certified copy ~~at their pleasure~~ during normal business hours. When the plat includes both registered and nonregistered land ~~two~~, copies thereof shall be so certified and ~~bound, one~~ available for such general public use in each of the offices of the county recorder and registrar of titles; provided, however, that only one such copy so certified ~~and bound~~ shall be provided for general public use in those counties wherein the ~~office quarters~~ offices of the county recorder and registrar of titles are one and the same. When ~~the any~~ any copy, or any part thereof, shall become ~~unintelligible illegible~~ from use or wear or otherwise, ~~at the request of the county recorder it shall be the duty of the county surveyor~~ it shall be the duty of the county recorder or registrar of titles or county surveyor, depending upon where the copy resides, to make a reproduction copy of the official plat, or the exact transparent reproducible copy under the direct supervision of the county recorder, who shall. It shall be the responsibility of the county recorder or registrar of titles to compare the copy, certify that it is a correct copy thereof, by proper certificate as above set forth above, and it shall be ~~bound in the volume, and under the page, and made available in the place of the discarded illegible copy.~~ In counties not having a county surveyor the county recorder shall employ a licensed land surveyor to make such reproduction copy, at the expense of the county. The county recorder shall receive as a fee for filing these plats, as aforesaid described, pursuant to section 357.18, subdivision 1. Reproductions from the exact transparent reproducible copy shall be available to any person upon request and the cost of such reproductions shall be paid by the person

making such request. If a copy of the official plat is requested, the county recorder shall prepare it and duly certify that it is a copy of the official plat and the cost of such copy shall be paid by the person making such request.

Sec. 6. Minnesota Statutes 2006, section 505.1792, subdivision 2, is amended to read:

~~Subd. 2. **Requirements.** Said plats shall be uniform in size measuring 20 by 30 inches from outer edge to outer edge. A border line shall be placed one half inch inside the outer edges of the plat or map on the top, bottom, and right hand side; a border line shall be placed two inches inside the outer edge on the left hand side. A north arrow and scale of the plat shall be shown on the plat which scale shall be of such dimension that the plat may be easily interpreted. The plat may consist of more than one sheet but if more than one sheet, they shall be numbered progressively and match lines of the right of way shall be indicated on each sheet. An official and one or more identical copies of each plat shall be prepared in black on white mat photographic card stock with double cloth back mounting or material of equal quality. One exact reproducible copy of the official plat shall be prepared on linen tracing cloth by a photographic process or on material of equal quality. The plat on white card stock shall be labeled "Official Plat" and the reproducible copy shall be labeled "Reproducible Copy of Official Plat". The reproducible copy shall be compared with the official plat and certified to by the county recorder in the manner in which certified copies of records are issued in the recorder's office, and the copies shall be bound in a proper volume for the use of the general public. The official plat may be inspected by any member of the public but only in the presence of the county recorder or the registrar of titles or a deputy. Any member of the public may have made a copy of the official plat by paying to the proper officer the cost of reproduction together with a fee of 50 cents for certification by the filing officer. Reproductions from the exact transparent reproducible copy shall be available to any person upon request and the cost of such reproductions shall be paid by the person making such request. If the abutting property is abstract property the plat shall be filed with the county recorder; if registered property, with the registrar of titles; if both registered and nonregistered property, then with both the county recorder and the registrar of titles, and when so filed with the registrar of titles, the registrar shall enter a reference to said plat as a memorial on all certificates of title of registered lands which abut the right of way shown on the map or plat filed.~~

~~In counties having microfilming capabilities, a plat may be prepared on sheets of suitable mylar or on linen tracing cloth by photographic process or on material of equal quality. The plat shall be labeled "Official Plat." Notwithstanding any other provisions of this subdivision to the contrary, no other copies of the plat need to be filed. The map or plat shall be prepared in compliance with section 505.021, subdivisions 1 and 5, and recorded in compliance with section 505.04.~~

Sec. 7. **REPEALER.**

Minnesota Statutes 2006, sections 505.02; and 505.08, subdivisions 1, 2a, and 3, are repealed."

Amend the title numbers accordingly

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Cohen moved that S.F. No. 846 be taken from the table. The motion prevailed.

S.F. No. 846: A bill for an act relating to state government; providing deficiency funding for certain state agencies; appropriating money.

Senator Cohen moved that the Senate do not concur in the amendments by the House to S.F. No. 846, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Senator Marty moved that S.F. No. 1253 be withdrawn from the Committee on Judiciary and re-referred to the Committee on Health, Housing and Family Security. The motion prevailed.

Senator Metzen moved that his name be stricken as chief author, and the name of Senator Rest be added as chief author to S.F. No. 1966. The motion prevailed.

Senator Prettner Solon moved that S.F. No. 962 be withdrawn from the Committee on Finance and re-referred to the Committee on Rules and Administration. The motion prevailed.

RECESS

Senator Betzold moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 846: Senators Cohen, Clark and Frederickson.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senators Berglin and Ortman were excused from the Session of today. Senator Vandever was excused from the Session of today from 11:00 to 11:20 a.m. Senator Lynch was excused from the Session of today from 11:20 to 11:25 a.m. Senator Anderson was excused from the Session of today at 11:30 a.m.

ADJOURNMENT

Senator Betzold moved that the Senate do now adjourn until 11:00 a.m., Friday, April 13, 2007. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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