

TWENTY-SIXTH DAY

St. Paul, Minnesota, Thursday, March 26, 2009

The Senate met at 8:15 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by Senator Michael J. Jungbauer.

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

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

The President declared a quorum present.

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

REPORTS OF COMMITTEES

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

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

S.F. No. 971: A bill for an act relating to education; providing for harassment, bullying, intimidation, and violence policies; amending Minnesota Statutes 2008, section 121A.03; repealing Minnesota Statutes 2008, section 121A.0695.

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

Page 1, line 8, after "INTIMIDATION," insert "HAZING,"

Page 1, lines 10, 15, 18, and 23, after "intimidation," insert "hazing,"

Page 1, line 17, delete "By January 1, 2010," and insert "(a)"

Page 2, line 7, after the period, insert "The policy specific to hazing must apply to student behavior that occurs on or off school property and during and after school hours."

Page 2, lines 8 and 15, after "intimidation," insert "hazing,"

Page 2, line 10, after "intimidation," insert "hazing," and delete "The board of directors"

Page 2, delete lines 11 and 12 and insert:

"(b) "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a substantial risk of harm to a person in order for the student to be initiated into or affiliated with a student organization.

(c) "Student organization" means a group, club, or organization having students as its primary members or participants."

Page 2, delete lines 16 and 17

Page 2, line 18, delete "January 1, 2010" and insert "the day following final enactment and applies to the 2010-2011 school year and later"

Page 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2008, section 124D.10, subdivision 8, is amended to read:

Subd. 8. **State and local requirements.** (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) A school sponsored by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(c) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(e) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and must comply with chapter 363A and ~~section~~ sections 121A.03 and 121A.04.

(h) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(i) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 123B.52, subdivision 5; 471.38; 471.391; 471.392; 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13, and 15; 471.881; and 471.89. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner. The Department of Education, state auditor, or legislative auditor may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(j) A charter school is a district for the purposes of tort liability under chapter 466.

(k) A charter school must comply with sections 13.32; 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

(l) A charter school is subject to the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

Sec. 3. **REPEALER.**

Minnesota Statutes 2008, sections 121A.0695; and 121A.69, are repealed."

Amend the title as follows:

Page 1, line 2, after "intimidation," insert "hazing,"

Amend the title numbers accordingly

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. 556: A bill for an act relating to transportation; highways; prohibiting certain activities at rest areas; prescribing petty misdemeanor penalty; proposing coding for new law in Minnesota Statutes, chapter 160.

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

Page 1, delete lines 8 and 9 and insert:

"(1) dispose of travel-related trash and rubbish, except by depositing it in a designated receptacle;"

Page 1, line 16, delete "or"

Page 1, delete lines 17 to 20 and insert:

"(5) stop and park continuously for a period over six hours, excluding commercial motor

vehicle operators subject to hours of service regulations under federal regulations, and excluding staff parking at rest areas; or

(6) pitch tents or sleep outside a vehicle."

Page 1, after line 22, insert:

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

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. 1539: A bill for an act relating to insurance; regulating viatical settlements; enacting and modifying the Viatical Settlements Model Act of the National Association of Insurance Commissions; providing criminal penalties; amending Minnesota Statutes 2008, sections 13.716, subdivision 7; 60A.964, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2008, sections 60A.961; 60A.962; 60A.963; 60A.965; 60A.966; 60A.967; 60A.968; 60A.969; 60A.970; 60A.971; 60A.972; 60A.973; 60A.974.

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

Page 2, line 23, delete the second "or" and insert "and"

Page 3, line 34, delete "coverage"

Page 5, line 6, delete everything after "provider"

Page 5, line 7, delete everything before "establishing"

Page 9, line 36, after "stockholders" insert "who hold more than ten percent of the shares of the company"

Page 10, line 23, after "proof" insert "of a suitable errors and omissions policy or"

Page 12, line 33, after "containing" insert "information that most accurately depicts the business of the viatical settlement provider in the prior year with reference to"

Page 14, line 1, delete "the" and insert "a"

Page 16, line 6, delete "purchaser" and insert "broker"

Page 22, line 32, before the period, insert ", unless this relationship is disclosed to the viator"

Page 23, line 4, before the period, insert ", unless this relationship is disclosed to the viator"

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

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

S.F. No. 838: A bill for an act relating to domestic abuse; authorizing courts to include pets and companion animals in protective orders; amending Minnesota Statutes 2008, section 518B.01,

subdivisions 6, 7.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 271: A bill for an act relating to state government; providing additional whistleblower protection to state employees; amending Minnesota Statutes 2008, section 181.932, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 477: A bill for an act relating to solid waste; requiring a pilot program to be implemented by paint manufacturers to recycle paint; amending Minnesota Statutes 2008, section 13.7411, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 115A.

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

Page 1, delete lines 14 to 18

Page 1, line 19, delete "Subd. 2." and insert "Subdivision 1."

Page 2, lines 6, 10, and 12, delete "3" and insert "2"

Page 3, line 3, delete "anticompetitive conduct" and insert "limited competition"

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. 660: A bill for an act relating to elections; requiring certain public officials to provide additional data to the secretary of state for use in maintaining the voter registration system; providing for automatic voter registration of applicants for a driver's license, instruction permit, or identification card; amending Minnesota Statutes 2008, sections 13.607, by adding a subdivision; 201.121, subdivision 2; 201.13, by adding a subdivision; 201.14; 201.15, subdivisions 1, 2; 201.155; 201.161; 204C.08, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 201.

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

Page 2, lines 18 and 32, delete everything after "number"

Page 2, line 19, delete the new language

Page 3, lines 1, 18, and 30, delete the new language

Page 3, line 17, delete everything after "number"

Page 3, line 29, delete "and, if available, driver's license or state identification card"

Page 4, line 10, delete ", and the last four digits of the individual's Social Security number"

Page 6, line 21, delete "table" and delete "on each" and insert "by the"

Page 6, line 22, delete "table"

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 referred

S.F. No. 1288: A bill for an act relating to the secretary of state; regulating various filings, forms, records, submissions, motions, and orders; regulating certain dissolutions; defining a term; amending Minnesota Statutes 2008, sections 5.15; 5.23, subdivisions 1, 4; 5.26, subdivision 1; 270C.63, subdivision 4; 272.488, subdivision 2; 302A.151; 303.06; 303.11; 308B.215; 321.0809; 321.0902; 321.0906; 321.0909; 322B.91, subdivision 1; 322B.92; 336.9-519; 336.9-521; 336.9-525; 336A.03, subdivision 3; 545.05, subdivisions 1, 2, 4, 7, 10, 11, 13; repealing Minnesota Statutes 2008, sections 5.03; 308B.121, subdivision 3; Minnesota Rules, part 8280.0470.

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

Page 1, after line 26, insert:

"**EFFECTIVE DATE.** This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Page 2, line 6, after "filed" insert "or relating to the same assumed name or trademark filing"

Page 2, line 12, after "notary" insert "or relating to the same assumed name or trademark filing"

Page 2, line 29, after "business entity" insert "or other filer of an assumed name or trademark filing"

Page 2, line 31, after "business entity" insert "or other filer of an assumed name or trademark filing"

Page 3, after line 2, insert:

"**EFFECTIVE DATE.** This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Sec. 5. [5.35] AUTOMATIC NAME RESERVATION.

Upon the dissolution or termination of the filing of any business entity for failure to file the annual renewal, the secretary of state shall automatically file a name reservation to hold that name on behalf of the dissolved or terminated entity for a period of one year from the date of the dissolution or termination.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Page 3, after line 27, insert:

"Sec. 8. Minnesota Statutes 2008, section 302A.115, subdivision 1, is amended to read:

Subdivision 1. **Requirements; prohibitions.** The corporate name:

(a) Shall be in the English language or in any other language expressed in English letters or characters;

(b) Shall contain the word "corporation," "incorporated," or "limited," or shall contain an abbreviation of one or more of these words, or the word "company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&"

(c) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than a legal business purpose;

(d) Shall be distinguishable upon the records in the Office of the Secretary of State from the name of each domestic corporation, limited partnership, limited liability partnership, and limited liability company, whether profit or nonprofit, and each foreign corporation, limited partnership, limited liability partnership, and limited liability company on file, authorized or registered to do business in this state at the time of filing, whether profit or nonprofit, and each name the right to which is, at the time of incorporation, reserved as provided for in sections 5.35, 302A.117, 321.0109, 322B.125, or 333.001 to 333.54, unless there is filed with the articles one of the following:

(1) The written consent of the domestic corporation, limited partnership, limited liability partnership, or limited liability company, or the foreign corporation, limited partnership, limited liability partnership, or limited liability company authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having a name that is not distinguishable;

(2) A certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(3) The applicant's affidavit that the domestic or foreign corporation, limited partnership, or limited liability company with the name that is not distinguishable has been incorporated or on file in this state for at least three years prior to the affidavit, if it is a domestic corporation, limited partnership, or limited liability company, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign corporation, limited partnership, or limited liability company, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit; that the domestic or foreign corporation, limited partnership, or limited liability company or holder has not during the three-year period before the affidavit filed any document with the secretary of state; that the applicant has mailed written notice to the domestic or foreign corporation, limited partnership, or limited liability company or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the domestic or foreign corporation or limited liability company or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, stating that the applicant intends to use a name that is not distinguishable and the notice has been returned to the applicant as undeliverable to the addressee domestic or foreign corporation, limited partnership, limited liability company, or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after

diligent inquiry, has been unable to find any telephone listing for the domestic or foreign corporation, limited partnership, or limited liability company with the name that is not distinguishable in the county in which is located the registered office of the domestic or foreign corporation, limited partnership, or limited liability company shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the domestic or foreign corporation, limited partnership, limited liability company, or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Page 4, after line 28, insert:

"Sec. 12. Minnesota Statutes 2008, section 308A.121, subdivision 1, is amended to read:

Subdivision 1. **Name.** The name of a cooperative must distinguish the cooperative upon the records in the Office of the Secretary of State from the name of a domestic corporation, whether profit or nonprofit, or a limited partnership, or a foreign corporation or a limited partnership ~~authorized or registered to do business in this state~~, whether profit or nonprofit, a limited liability company, whether domestic or foreign, a limited liability partnership, whether domestic or foreign, on file, authorized or registered to do business in this state at the time of filing or a name the right to which is, at the time of incorporation, reserved or provided for in sections 5.35, 302A.117, 317A.117, 321.0109, 322B.125, or 333.001 to 333.54.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section.

Sec. 13. Minnesota Statutes 2008, section 308B.211, subdivision 1, is amended to read:

Subdivision 1. **Distinguished name.** The name of a cooperative shall distinguish the cooperative upon the records in the Office of the Secretary of State from the name of a domestic business entity or a foreign business entity, on file, authorized or registered to do business in this state at the time of filing, or a name the right to which is, at the time of organization, reserved or provided for by law.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Page 5, after line 19, insert:

"Sec. 15. Minnesota Statutes 2008, section 317A.115, subdivision 2, is amended to read:

Subd. 2. **Name must be distinguishable.** (a) A corporate name must be distinguishable upon the records in the Office of the Secretary of State from the name of a domestic corporation or limited partnership, a foreign corporation or limited partnership ~~authorized or registered to do business in this state~~, whether profit or nonprofit, a limited liability company, whether domestic or foreign, on

file, authorized to do business in this state at the time of filing, a limited liability partnership, whether domestic or foreign, or a name the right to which is, at the time of incorporation, reserved, registered, or provided for in section 5.35, 317A.117, 302A.117, 321.0109, 322B.125, or sections 333.001 to 333.54, unless one of the following is filed with the articles:

- (1) the written consent of the organization having the name that is not distinguishable;
 - (2) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to use its corporate name in this state; or
 - (3) an affidavit of nonuse of the kind required by section 302A.115, subdivision 1, paragraph (d), clause (3).
- (b) The secretary of state shall determine whether a name is distinguishable from another name for purposes of this section and section 317A.117.
- (c) This subdivision does not affect the right of a corporation existing on January 1, 1991, or a foreign corporation authorized to do business in this state on that date, to use its corporate name.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section.

Sec. 16. Minnesota Statutes 2008, section 321.0108, is amended to read:

321.0108 NAME.

- (a) The name of a limited partnership may contain the name of any partner.
- (b) The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the phrase "limited liability limited partnership" or the abbreviation "LLL.P." or "L.L.L.P."
- (c) Except as provided in section 321.1206(e)(1), the name of a limited liability limited partnership must contain the phrase "limited liability limited partnership" or the abbreviation "LLL.P." or "L.L.L.P." and must not otherwise contain the abbreviation "L.P." or "LP."
- (d) The limited partnership name shall not contain a word or phrase that indicates or implies that it is formed for a purpose other than a legal purpose.
- (e) The limited partnership name shall be distinguishable upon the records in the Office of the Secretary of State from the name of each domestic corporation, limited partnership, limited liability partnership, and limited liability company, whether profit or nonprofit, and each foreign corporation, limited partnership, limited liability partnership, and limited liability company on file, authorized or registered to do business in this state at the time of filing, whether profit or nonprofit, and each name the right to which is, at the time of formation, reserved as provided for in sections 5.35, 302A.117, 322A.03, 322B.125, or 333.001 to 333.54, unless there is filed with the certificate of limited partnership one of the following:

- (1) the written consent of the domestic corporation, limited partnership, limited liability partnership, or limited liability company, or the foreign corporation, limited partnership, limited liability partnership, or limited liability company authorized or registered to do business in this

state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having a name that is not distinguishable;

(2) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(3) the applicant's affidavit that the corporation, limited partnership, or limited liability company with the name that is not distinguishable has been incorporated or on file in this state for at least three years prior to the affidavit, if it is a domestic corporation, limited partnership, or limited liability company, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign corporation, limited partnership, or limited liability company, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit; that the corporation, limited partnership, or limited liability company or holder has not during the three-year period before the affidavit filed any document with the secretary of state; that the applicant has mailed written notice to the corporation, limited partnership, or limited liability company or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the corporation or limited liability company or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, stating that the applicant intends to use a name that is not distinguishable and the notice has been returned to the applicant as undeliverable to the addressee corporation, limited partnership, limited liability company, or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the corporation, limited partnership, or limited liability company with the name that is not distinguishable in the county in which is located the registered office of the corporation, limited partnership, or limited liability company shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the corporation, limited partnership, limited liability company, or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

(f) The secretary of state shall determine whether a name is distinguishable from another name for purposes of this section and section 321.0109.

(g) This section and section 321.0109 do not abrogate or limit the law of unfair competition or unfair practices; nor sections 333.001 to 333.54; nor the laws of the United States with respect to the right to acquire and protect copyrights, trade names, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols; nor derogate the common law or the principles of equity.

(h) A limited partnership that is the surviving organization in a merger with one or more other organizations, or that is formed by the reorganization of one or more organizations, or that acquires by sale, lease, or other disposition to or exchange with an organization all or substantially all of the assets of another organization, including its name, may have the same name as that used in this state by any of the other organizations, if the other organization whose name is sought to be used was organized under the laws of, or is authorized to transact business in, this state.

(i) The use of a name by a limited partnership in violation of this section does not affect or vitiate its existence, but a court in this state may, upon application of the state or of a person interested or affected, enjoin the limited partnership from doing business under a name assumed in violation of this section, although its certificate of limited partnership may have been filed with the secretary of state and a certificate of formation issued.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Page 7, after line 18, insert:

"Sec. 21. Minnesota Statutes 2008, section 322B.12, subdivision 1, is amended to read:

Subdivision 1. **Requirements and prohibitions.** The limited liability company name must:

- (1) be in the English language or in any other language expressed in English letters or characters;
- (2) contain the words "limited liability company," or must contain the abbreviation "LLC" or, in the case of an organization formed pursuant to chapter 319B, must meet the requirements of section 319B.05 applicable to a limited liability company;
- (3) not contain the word corporation or incorporated and must not contain the abbreviation of either or both of these words;
- (4) not contain a word or phrase that indicates or implies that it is organized for a purpose other than a legal business purpose; and
- (5) be distinguishable upon the records in the Office of the Secretary of State from the name of each domestic limited liability company, limited liability partnership, corporation, and limited partnership, whether profit or nonprofit, and each foreign limited liability company, limited liability partnership, corporation, and limited partnership on file, authorized or registered to do business in this state at the time of filing, whether profit or nonprofit, and each name the right to which is, at the time of organization, reserved as provided for in sections 5.35, 302A.117, 317A.117, 321.0109, 322B.125, or 333.001 to 333.54, unless there is filed with the articles of organization one of the following:
 - (i) the written consent of the domestic limited liability company, limited liability partnership, corporation, or limited partnership or the foreign limited liability company, limited liability partnership, corporation, or limited partnership authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having a name that is not distinguishable;
 - (ii) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or
 - (iii) the applicant's affidavit that the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership with the name that is not distinguishable has been organized, incorporated, or on file in this state for at least three years prior to the affidavit, if it is a domestic limited liability company, corporation, or limited partnership, or has been authorized or registered to do business in this state for at least three years prior to the

affidavit, if it is a foreign limited liability company, corporation, or limited partnership, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit, that the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or holder has not during the three-year period before the affidavit filed any document with the secretary of state; that the applicant has mailed written notice to the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the domestic or foreign limited liability company or domestic or foreign corporation or in care of the agent of the domestic or foreign limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, stating that the applicant intends to use a name that is not distinguishable and the notice has been returned to the applicant as undeliverable to the addressee of the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership with the name that is not distinguishable in the county in which is located the registered office of the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

EFFECTIVE DATE. This section is effective 30 days after the secretary of state certifies that the information systems of the Office of the Secretary of State have been modified to implement this section."

Page 9, line 8, delete "Notwithstanding Minnesota Rules, part 8280.0015, subpart 8,"

Page 10, line 27, delete "Notwithstanding Minnesota Rules, part 8280.0040, subpart 1,"

Page 10, line 28, delete "Corporation" and insert "Commercial"

Page 11, after line 22, insert:

"Sec. 28. Minnesota Statutes 2008, section 336A.09, subdivision 1, is amended to read:

Subdivision 1. **Procedure.** (a) Oral and written inquiries regarding information provided by the filing of effective financing statements or lien notices may be made at any filing office during regular business hours.

(b) A filing office receiving an oral or written inquiry shall, upon request, provide an oral or facsimile response to the inquiry ~~and must send a confirmation of the inquiry in writing by the end of the next business day after the inquiry is received.~~

(c) A filing office shall maintain a record of inquiries made under this section including:

- (1) the date of the inquiry;
- (2) the name of the debtor inquired about; and
- (3) identification of the person making the request for inquiry."

Page 11, line 24, strike "Definitions" and insert "Scope"

Page 11, line 25, delete "(Uniform" and insert "of the Uniform"

Page 11, line 26, delete "Transactions)" and insert "Transactions"

Page 13, line 4, delete "or"

Page 13, line 14, strike everything after "involved"

Page 13, line 15, strike everything before the period

Page 16, line 19, delete "is" and insert "IS"

Page 16, line 27, delete "is" and insert "IS"

Page 16, line 30, delete "is filed" and insert "purports"

Page 16, line 31, after "Transactions" insert a comma

Page 17, after line 22, insert:

"Sec. 37. **EFFECTIVE DATE.**

Sections 22 to 36 are effective the day after final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete lines 2 and 3

Page 1, line 4, delete "term;" and insert "relating to commerce; regulating various filings, forms, records, submissions, motions, and orders relating to duties and responsibilities of the secretary of state;"

Amend the title numbers accordingly

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. 1208: A bill for an act relating to human services; modifying provisions governing medical assistance claims and liens; amending Minnesota Statutes 2008, sections 256B.15, subdivisions 1, 1a, 2; 514.983, 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 2008, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. **Estates subject to claims.** If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, or as otherwise provided for in this section, the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 55 years of age, and received services under this chapter;

(b) the person resided in a medical institution for six months or longer, received services under this chapter, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital; or

(c) the person received general assistance medical care services under chapter 256D.

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent, and to other persons with an ownership interest in the real property owned by the decedent at the time of the decedent's death, whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.

Sec. 2. Minnesota Statutes 2008, section 256B.15, subdivision 5, is amended to read:

Subd. 5. **Undue hardship.** (a) Any person entitled to notice in subdivision 1a has a right to apply for waiver of the claim based upon undue hardship. Any claim pursuant to this section may be fully or partially waived because of undue hardship. Undue hardship does not include action taken by the decedent which divested or diverted assets in order to avoid estate recovery. Any waiver of a claim must benefit the person claiming undue hardship. The commissioner shall have authority to hear claimant appeals, pursuant to section 256.045, when an application for a hardship waiver is denied in whole or part.

(b) This paragraph applies to a claim against the decedent's real property if an individual other than the recipient's spouse had an ownership interest in the property at the time of the decedent's death and actually and continuously occupied the real property as the individual's dwelling place

for at least 180 days before the date the decedent died. If the real property is classified as homestead property for property tax purposes under section 273.124, no claim may be made until the individual no longer resides in the property or until the property is sold or transferred. The amount of the homestead not subject to adjustment or recovery under this paragraph is limited to the area and value provided under section 510.02."

Amend the title numbers accordingly

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

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

S.F. No. 1657: A bill for an act relating to natural resources; reorganizing, consolidating, and restructuring state environment and natural resource agencies and departments; establishing Environment and Natural Resources Structure Committee to advise legislature and governor on new structure; abolishing all powers and duties of Pollution Control Agency, Department of Natural Resources, Environmental Quality Board, Board of Water and Soil Resources, Petroleum Tank Release Compensation Board, and Agricultural Chemical Response Compensation Board; abolishing certain powers and duties of Departments of Agriculture, Health, Public Safety, and Commerce.

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

Page 2, line 11, delete "Administration" and insert "Finance" and delete "administration" and insert "administrative services"

Page 2, line 12, delete "administration" and insert "finance"

Page 2, line 17, after "will" insert "provide for the protection, conservation, preservation, and enhancement of the state's environment and natural resources and will"

Page 3, line 25, delete "ABOLITION" and insert "CONSIDERATION"

Page 3, lines 27 and 31, delete "are abolished" and insert "shall be considered by the advisory committee established under section 1"

Page 3, line 28, delete "on June 30, 2011" and insert "the day following final enactment"

Page 4, lines 11 and 33, delete "are abolished" and insert "shall be considered by the advisory committee established under section 1"

Page 5, lines 2 and 8, delete "are abolished" and insert "shall be considered by the advisory committee established under section 1"

Page 5, lines 4 and 9, delete "June 30, 2011" and insert "the day following final enactment"

Page 5, line 5, delete "ABOLITION" and insert "CONSIDERATION"

Page 5, line 7, after "Response" insert "Compensation"

Amend the title accordingly

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

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

S.F. No. 867: A bill for an act relating to education; modifying charter school provisions; amending Minnesota Statutes 2008, sections 124D.10; 124D.11, subdivision 9.

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 2008, section 124D.10, subdivision 1, is amended to read:

Subdivision 1. **Purposes.** (a) The purpose of this section is to:

- (1) improve pupil learning and student achievement;
- (2) increase learning opportunities for pupils;
- (3) encourage the use of different and innovative teaching methods;
- (4) ~~require the measurement of~~ measure learning outcomes and create different and innovative forms of measuring outcomes;
- (5) establish new forms of accountability for schools; ~~or~~ and
- (6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(b) This section does not provide a means to keep open or replace a school that otherwise would be closed. Applicants in these circumstances bear the burden of proving that conversion to a charter school fulfills ~~a purpose~~ the purposes specified in this subdivision, independent of the school's closing.

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

Sec. 2. Minnesota Statutes 2008, section 124D.10, subdivision 2a, is amended to read:

Subd. 2a. **Charter School Advisory Council.** (a) A Charter School Advisory Council is established ~~under section 15.059 except that~~ and the term for each council member shall be three years. The advisory council is composed of ~~seven~~ nine members ~~from throughout the state who have demonstrated experience with or interest in charter schools. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to charter schools that the council deems necessary and shall.~~ The members may include charter school sponsors, charter school personnel, public K-12 teachers, school board members, parents of currently enrolled K-12 public school students, and school district representatives. The commissioner shall appoint the council members.

- ~~(1) encourage school boards to make full use of charter school opportunities;~~
- ~~(2) encourage the creation of innovative schools;~~

~~(3) provide leadership and support for charter school sponsors to increase the innovation in and the effectiveness, accountability, and fiscal soundness of charter schools;~~

~~(4) serve an ombudsman function in facilitating the operations of new and existing charter schools;~~

~~(5) promote timely financial management training for newly elected members of a charter school board of directors and ongoing training for other members of a charter school board of directors; and~~

~~(6) facilitate compliance with auditing and other reporting requirements. The advisory council shall refer all its proposals to the commissioner who shall provide time for reports from the council.~~

The advisory council shall advise and make recommendations to the commissioner on sponsoring charter schools and other matters, including:

(1) approving, reviewing, and disciplining sponsors, consistent with this section;

(2) supporting charter school innovation, effectiveness, accountability, and fiscal soundness;

(3) providing a management training program for charter school administrators and board members;

(4) complying with auditing and other financial reporting requirements;

(5) reviewing affidavits, charter school applications, and charter school grade and program expansion applications; and

(6) identifying models to improve communication, cooperation, and the exchange of ideas between and among public charter and district schools.

(b) The advisory council shall recommend to the commissioner and the legislature, by December 1, 2009, an organizational model to give state-level leadership to new school planning, development, start-up, and successful ongoing operation in both the district and chartered sectors of public education. The council, as part of its recommendation, must suggest legislation necessary to implement this new state-level organization model.

(c) The Charter School Advisory Council under this subdivision expires June 30, 2007 2015.

EFFECTIVE DATE. This section is effective retroactively from June 30, 2007.

Sec. 3. Minnesota Statutes 2008, section 124D.10, subdivision 3, is amended to read:

Subd. 3. **Sponsor.** (a) For the purposes of this section:

(1) "application" means the charter school business and operational plan a school developer submits to a sponsor for approval that documents the school developer's mission statement, school purposes, program design, financial plan, governance and management structure, and background and experience, plus any other information the sponsor requests. The application also shall include a "statement of assurance" of legal compliance as prescribed by the commissioner; and

(2) "affidavit" means a written statement the sponsor submits to the commissioner for approval under subdivision 4 attesting to its review and approval of a school charter.

(b) The following organizations may sponsor one or more charter schools:

(1) a school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19;

(2) charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, excluding a nonpublic sectarian or religious institution, any person other than a natural person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the nonpublic sectarian or religious institution, and any other charitable organization under this clause that in the federal IRS Form 1023, Part IV, describes activities indicating a religious purpose, that:

(i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations;

(ii) is registered with the attorney general's office, and;

(iii) reports an ~~end-of-year~~ ongoing fund balance of at least \$2,000,000 for at least four consecutive years; and

(iv) is incorporated in the state of Minnesota;

(3) a Minnesota private college, notwithstanding clause (2), that grants two- or four-year degrees and is registered with the Minnesota Office of Higher Education under chapter 136A; community college, state university, or technical college, governed by the Board of Trustees of the Minnesota State Colleges and Universities; or the University of Minnesota ~~may sponsor one or more charter schools.~~;

~~(b)~~ (4) a nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under ~~section~~ sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code of 1986, may sponsor one or more charter schools if the charter school has operated for at least three years under a different sponsor or an organization that has previously sponsored schools under this subdivision, and if the nonprofit corporation has ~~existed~~ been incorporated in the state of Minnesota for at least ~~25~~ 20 years; or

(5) no more than two single-purpose sponsors that are charitable organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state of Minnesota whose sole purpose is to sponsor charter schools. Eligible organizations interested in being approved as a sponsor under this paragraph must submit a proposal to the commissioner that includes the provisions of paragraph (c) and a five-year financial plan.

(c) An eligible sponsor under this subdivision must apply to the commissioner for approval as a sponsor before submitting an affidavit to the commissioner to sponsor a charter school. The application for approval as a charter school sponsor must demonstrate the applicant's ability to implement the procedures and satisfy the criteria for sponsoring a charter school under this section. The commissioner must approve or disapprove an application within 60 business days of the application deadline. If the commissioner disapproves the application, the commissioner must notify the applicant of the deficiencies and the applicant then has 20 business days to address the deficiencies to the commissioner's satisfaction. Failing to address the deficiencies to the commissioner's satisfaction makes an applicant ineligible to be a sponsor. The affidavit to be submitted to and evaluated by the commissioner must include at least the following:

- (1) how sponsoring schools is a way for the organization to carry out its mission;
 - (2) a description of the capacity of the organization to serve as a sponsor, including the personnel who will perform the sponsoring duties, their qualifications, the amount of time they will be assigned to this responsibility, and the financial resources allocated by the organization to this responsibility;
 - (3) a description of the application and review process the sponsor will use to make decisions regarding the granting of charters, which will include at least the following:
 - (i) how the statutory purposes defined in subdivision 1 are addressed;
 - (ii) the mission, goals, program model, and student performance expectations;
 - (iii) an evaluation plan for the school that includes criteria for evaluating educational, organizational, and fiscal plans;
 - (iv) the school's governance plan;
 - (v) the financial management plan; and
 - (vi) the administration and operations plan;
 - (4) a description of the type of contract it will arrange with the schools it sponsors that meets the provisions of subdivision 6 and defines the rights and responsibilities of the charter school for governing its educational program, controlling its funds, and making school management decisions;
 - (5) the process to be used for providing ongoing oversight of the school consistent with the contract expectations specified in clause (4) that assures that the schools sponsored are complying with both the provisions of applicable law and rules, and with the contract;
 - (6) the process for making decisions regarding the renewal or termination of the school's charter based on evidence that demonstrates the academic, organizational, and financial competency of the school, including its success in increasing student achievement and meeting the goals of the charter school agreement; and
 - (7) an assurance specifying that the organization is committed to serving as a sponsor for the full five-year term.
- (d) The sponsor must participate in department-approved training.
 - (e) A sponsor that chartered a school before August 1, 2009, must apply by June 30, 2011, to the commissioner for approval, under paragraph (c), to continue as a sponsor under this section. For purposes of this paragraph, a sponsor that fails to submit a timely application is ineligible to charter a school.
 - (f) The commissioner shall review a sponsor's performance every five years in a manner and form determined by the commissioner and may review a sponsor's performance more frequently at the commissioner's own initiative or at the request of a charter school operator, charter school board member, or other interested party. The commissioner, after completing the review, shall transmit a report with findings to the sponsor. If, consistent with this section, the commissioner finds that a sponsor has not fulfilled the requirements of this section, the commissioner may subject the sponsor to corrective action, which may include terminating the contract with the charter school board of

directors of a school it sponsored. The commissioner must notify the sponsor in writing of any findings that may subject the sponsor to corrective action and the sponsor then has 15 business days to request an informal hearing before the commissioner takes corrective action.

(g) The commissioner may at any time take corrective action against a sponsor, including terminating a sponsor's ability to charter a school for:

(1) failing to demonstrate the criteria under paragraph (c) under which the commissioner approved the sponsor;

(2) violating a term of the chartering contract between the sponsor and the charter school board of directors; or

(3) violations by the charter school that the sponsor authorizes and that the board of directors fails to correct.

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

Sec. 4. Minnesota Statutes 2008, section 124D.10, subdivision 4, is amended to read:

Subd. 4. **Formation of school.** (a) A sponsor may authorize one or more licensed teachers under section 122A.18, subdivision 1, to operate a charter school subject to approval by the commissioner. ~~A board must vote on charter school application for sponsorship no later than 90 days after receiving the application.~~ The school must be organized and operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section. Notwithstanding sections 465.717 and 465.719, a school district may create a corporation for the purpose of creating a charter school.

(b) Before the operators may ~~form~~ establish and operate a school, the sponsor must file an affidavit with the commissioner stating its intent to authorize a charter school. A sponsor must file a separate affidavit for each school it intends to charter. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school and how the sponsor intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the sponsor and the charter school board of directors under subdivision 6. The commissioner must approve or disapprove the sponsor's ~~proposed authorization~~ affidavit within ~~90~~ 60 business days of receipt of the affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify the sponsor of the deficiencies in the affidavit and the sponsor then has 20 business days to address the deficiencies. If the sponsor does not address the deficiencies to the commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain commissioner approval precludes a sponsor from ~~authorizing the charter~~ chartering the school that was ~~is~~ the subject of ~~the~~ this affidavit.

(c) The sponsor may prevent an approved charter school from opening for operation if, among other grounds, the charter school violates this section or does not meet the ready-to-open standards that are part of the sponsor's oversight and evaluation process or are stipulated in the charter school contract.

(d) The operators authorized to organize and operate a school, before entering into a contract or other agreement for professional or other services, goods, or facilities, must incorporate as a cooperative under chapter 308A or as a nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members who are not related parties until

a timely election for members of the ongoing charter school board of directors is held according to the school's articles and bylaws under paragraph (f). ~~A charter school board of directors must be composed of at least five members. Any Staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents or legal guardians of children enrolled in the school may participate in the election for~~ are the voters eligible to elect the members of the school's board of directors. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors before the school completes its third year of operation, unless the commissioner waives the requirement for a majority of licensed teachers on the board. A charter school must notify eligible voters of the school board election dates at least 30 days before the election. Board of director meetings must comply with chapter 13D.

(e) Every charter school board member shall attend department-approved training on board governance, the board's role and responsibilities, employment policies and practices, and financial management standards and practices. A board member who does not begin the required training within three months of being seated and complete the required training within 12 months of being seated on the board is ineligible to continue to serve as a board member.

(f) The ongoing board must be elected before the school completes its third year of operation. The charter school board of directors shall be composed of at least five members who are not related parties and shall include at least a licensed teacher employed at the school, a charter school parent or legal guardian, and an interested community member. The chief financial officer and the chief administrator are nonvoting board members. Board bylaws shall outline the process and procedures for changing the board's governance model. A board may change its governance model within the requirements of board membership in this section and only with approval from the sponsor and a voting majority of the board of directors and the licensed teachers employed at the school.

~~(d)~~ (g) The granting or renewal of a charter school by a sponsoring entity sponsor must not be conditioned upon the bargaining unit status of the employees of the school.

(h) The granting or renewal of a charter school by a sponsor must not be contingent on a requirement to contract, lease, or purchase services from the sponsor. A party to such an arrangement between a sponsor and a school must disclose the arrangement to the commissioner. The commissioner may terminate a charter school contract under this section if the commissioner determines that the arrangement is illegal.

~~(e)~~ (i) A sponsor may authorize the operators board of directors of a charter school to expand the operation of the charter school to additional sites or to add additional grades at the school beyond those described in the sponsor's application original affidavit as approved by the commissioner only after submitting a supplemental application affidavit for approval to the commissioner in a form and manner prescribed by the commissioner. The supplemental application affidavit must provide evidence that:

(1) the expansion of proposed by the charter school is supported by need and projected enrollment;

(2) the charter school expansion is warranted, at a minimum, by longitudinal data demonstrating sustained academic performance and growth on statewide assessments under chapter 120B;

~~(2)~~ (3) the charter school is fiscally sound and has the financial capacity to implement the

proposed expansion;

(3) (4) the sponsor supports the charter school has the potential physical capacity to implement the proposed expansion; and

(4) the building of the additional site meets all health and safety requirements to be eligible for lease aid (5) the sponsor finds that the charter school has the management capacity to implement the proposed expansion.

(f) The commissioner annually must provide timely financial management training to newly elected members of a charter school board of directors and ongoing training to other members of a charter school board of directors. Training must address ways to:

(1) proactively assess opportunities for a charter school to maximize all available revenue sources;

(2) establish and maintain complete, auditable records for the charter school;

(3) establish proper filing techniques;

(4) document formal actions of the charter school, including meetings of the charter school board of directors;

(5) properly manage and retain charter school and student records;

(6) comply with state and federal payroll record keeping requirements; and

(7) address other similar factors that facilitate establishing and maintaining complete records on the charter school's operations.

(j) The commissioner shall have 30 business days to review and comment on the supplemental affidavit. The commissioner shall notify the sponsor of any deficiencies in the supplemental affidavit and the sponsor then has 30 business days to address, to the commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school shall not expand grades or add sites until the commissioner has approved the supplemental affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

(k) A new charter school must not open in a newly consolidated district under section 123A.48 or in a district dissolved under section 123A.46 for at least 36 months after the date of consolidation or dissolution, except under subdivision 5 in this section or unless the school board of the school district in which the charter school would be located gives the sponsor written approval to do so.

(l) A new charter school must not open within a one-mile radius of a public school that has closed under section 123B.51 for at least 36 months after the date the school closed unless the commissioner determines that the new charter school applicant does not intend to reestablish the closed public school as a charter school, except under subdivision 5 in this section or unless the school board of the school district in which the charter school would be located gives the sponsor written approval to do so.

(m) A sponsor may apply to the commissioner for a waiver from paragraph (k) or paragraph (l). The commissioner must use the criteria in this section to approve or deny the waiver within 45 business days. The commissioner's decision is final.

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

Sec. 5. Minnesota Statutes 2008, section 124D.10, subdivision 4a, is amended to read:

Subd. 4a. **Conflict of interest.** ~~(a) A member of a charter school board of directors~~ An individual is prohibited from serving as a member of the charter school board of directors or as if the individual, an immediate family member, or the individual's partner is an owner, employee or agent of or a contractor with a for-profit or nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates this prohibition shall be is individually liable to the charter school for any damage caused by the violation.

(b) No member of the board of directors, employee, officer, or agent of a charter school shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict exists when:

(1) the board member, employee, officer, or agent;

(2) the immediate family of the board member, employee, officer, or agent;

(3) the partner of the board member, employee, officer, or agent; or

(4) an organization that employs, or is about to employ any individual in clauses (1) to (3), has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

(c) Any employee, agent, or board member of the sponsor who participates in the initial review, approval, ongoing oversight, evaluation, or the charter renewal or nonrenewal process or decision is ineligible to serve on the board of directors of a school chartered by that sponsor.

(d) An individual may serve as a member of the board of directors if no conflict of interest under paragraph (a) exists.

~~(e) A member of a charter school board of directors that serves as a member of the board of directors or as an employee or agent of or a contractor with a nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities, must disclose all potential conflicts to the commissioner.~~

~~(e)~~ (e) The conflict of interest provisions under this subdivision do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.

~~(e)~~ (f) The conflict of interest provisions under this subdivision do not apply to a teacher who provides services to a charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

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

Sec. 6. Minnesota Statutes 2008, section 124D.10, subdivision 5, is amended to read:

Subd. 5. **Conversion of existing schools.** A board of an independent or special school district

may convert one or more of its existing schools to charter schools under this section if 60 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

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

Sec. 7. Minnesota Statutes 2008, section 124D.10, subdivision 6, is amended to read:

Subd. 6. **Charter contract.** The sponsor's authorization for a charter school must be in the form of a written contract signed by the sponsor and the board of directors of the charter school. The contract must be completed within ~~90~~ 45 business days of the commissioner's approval of the sponsor's ~~proposed authorization~~ affidavit. The sponsor shall submit a copy of the signed contract to the commissioner within ten days of its execution. The contract for a charter school must be in writing and contain at least the following:

- (1) a description of a how the program ~~that~~ carries out ~~one or more of~~ the purposes in subdivision 1;
- (2) a description of the specific academic and nonacademic outcomes that pupils are to ~~must~~ achieve ~~under subdivision 10~~;
- (3) a statement of admission policies and procedures;
- (4) a governance, management and administration of ~~plan for~~ the school;
- (5) signed agreements from charter school board members to comply with all federal and state laws governing all organizational, programmatic, and financial requirements ~~and procedures for program and financial audits~~ applicable to charter schools;
- (6) ~~how the school will comply with subdivisions 8, 13, 16, and 23~~ the criteria, processes, and procedures that the sponsor will use for ongoing oversight of operational, financial, and academic performance;
- (7) ~~assumption of liability by the charter school~~ the performance evaluation that is a prerequisite for reviewing a charter school contract under subdivision 15;
- (8) types and amounts of insurance liability coverage to be obtained by the charter school;
- (9) the term of the contract, which may be up to three years for an initial contract, plus a preoperational planning year and up to five years for a renewed contract if warranted by the school's academic, financial, and operational performance;
- (10) ~~if~~ how the board of directors or the operators of the charter school will provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, a description of the financial parameters within which the charter school will operate to provide the special instruction and services to children with a disability; ~~and~~
- (11) the process and criteria the sponsor intends to use to monitor and evaluate the fiscal and student performance of the charter school, consistent with subdivision 15; and
- (12) the plan for an orderly closing of the school under chapter 308A or chapter 317A, if the closure is a termination for cause, voluntary termination, or nonrenewal of the contract that

includes establishing the responsibilities of the charter school board of directors and the sponsor, and notifying the commissioner, sponsor, the school district in which the charter school is located, and parents of enrolled students about the closure, the transfer of student records to the students' resident districts, and procedures for closing financial operations.

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

Sec. 8. Minnesota Statutes 2008, section 124D.10, subdivision 6a, is amended to read:

Subd. 6a. **Audit report.** (a) The charter school must submit an audit report to the commissioner and its sponsor by December 31 each year.

(b) The charter school, with the assistance of the auditor conducting the audit, must include with the report a copy of all charter school agreements for corporate management services. If the entity that provides the professional services to the charter school is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by February 15 a copy of the annual return required under section 6033 of the Internal Revenue Code of 1986.

(c) If the commissioner receives as part of the an audit report a management letter indicating that a material weakness exists in the financial reporting systems of a charter school, the charter school must submit a written report to the commissioner explaining how the material weakness will be resolved.

(d) Upon the request of an individual, the charter school must make available in a timely fashion the minutes of meetings of members, the board of directors, and committees having any of the authority of the board of directors, and statements showing the financial result of all operations and transactions affecting income and surplus during the school's last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

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

Sec. 9. Minnesota Statutes 2008, section 124D.10, subdivision 7, is amended to read:

Subd. 7. **Public status; exemption from statutes and rules.** A charter school is a public school and is part of the state's system of public education. ~~Except as provided in this section, a charter school is exempt from all statutes and rules applicable to a school, a board, or a district, although it may elect to comply with one or more provisions of statutes or rules.~~ A charter school is exempt from all statutes and rules applicable to a school, school board, or school district unless a statute or rule is made specifically applicable to a charter school or is included in this section.

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

Sec. 10. Minnesota Statutes 2008, section 124D.10, subdivision 8, is amended to read:

Subd. 8. **Federal, state, and local requirements.** (a) A charter school shall meet all applicable federal, state, and local health and safety requirements applicable to school districts.

(b) A school must comply with statewide accountability requirements governing standards and assessments in chapter 120B.

(c) A school sponsored by a school board may be located in any district, unless the school board

of the district of the proposed location disapproves by written resolution.

~~(e)~~ (d) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution. A charter school student must be released for religious instruction, consistent with section 120A.22, subdivision 12, clause (3).

~~(d)~~ (e) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

~~(e)~~ (f) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

~~(f)~~ (g) A charter school may not charge tuition.

~~(g)~~ (h) A charter school is subject to and must comply with chapter 363A and section 121A.04.

~~(h)~~ (i) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

~~(i)~~ (j) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; ~~123B.52, subdivision 5;~~ 471.38; 471.391; 471.392; and 471.425; ~~471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13, and 15; 471.881; and 471.89.~~ The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner and sponsor. The Department of Education, state auditor, ~~or~~ legislative auditor or sponsor may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

~~(j)~~ (k) A charter school is a district for the purposes of tort liability under chapter 466.

~~(k)~~ (l) A charter school must comply with ~~sections 13.32~~ chapters 13 and 13D; and sections 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

~~(l)~~ (m) A charter school is subject to the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

(n) A charter school offering online courses or programs must comply with section 124D.095.

(o) A charter school and charter school board of directors are subject to chapter 181.

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

Sec. 11. Minnesota Statutes 2008, section 124D.10, is amended by adding a subdivision to read:

Subd. 8a. **Aid reduction.** The commissioner must reduce a charter school's state aid according to section 127A.42, if the charter school board fails to correct a violation under this section.

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

Sec. 12. Minnesota Statutes 2008, section 124D.10, subdivision 9, is amended to read:

Subd. 9. **Admission requirements.** A charter school may limit admission to:

(1) pupils within an age group or grade level;

(2) ~~people~~ pupils who are eligible to participate in the graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area ~~where the percentage of the population of non-Caucasian people of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area~~ when the school serves low-income students at risk of academic failure.

~~A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. If a charter school is the only school located in a town serving pupils within a particular grade level, then pupils that are residents of the town must be given preference for enrollment before accepting pupils by lot. If a pupil lives within two miles of a charter school and the next closest public school is more than five miles away, the charter school must give those pupils preference for enrollment before accepting other pupils by lot. The charter school must develop and publish a lottery policy and process that it must use when accepting pupils by lot.~~

A charter school shall give preference for enrollment to a sibling of an enrolled pupil and to a foster child of that pupil's parents before accepting other pupils by lot.

A charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this subdivision.

The charter school shall not distribute any services or goods of value to students, parents or guardians as an inducement, term, or condition of enrolling a student in a charter school.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to the 2010-2011 school year.

Sec. 13. Minnesota Statutes 2008, section 124D.10, subdivision 11, is amended to read:

Subd. 11. **Employment and other operating matters.** (a) A charter school must employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The charter school's state aid may be reduced under section ~~127A.42~~ 127A.43 if the school employs a teacher who is not appropriately licensed or approved by the board of teaching. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge teachers and nonlicensed employees. The charter school board of directors must comply with section 181.932 and a school shall not discharge, discipline, threaten or discriminate against, or penalize an employee regarding the employee's compensation, terms or conditions of work location or privileges of employment

because the employee, or person acting on the employee's behalf, in good faith transmits to the department, the state of Minnesota or a local law enforcement agency information about the school's financial circumstances, educational performance, a conflict of interest, or other violation of law or school policy. The charter school board of directors must enter into a written contract with each teacher that outlines the terms and conditions of employment.

(b) A person, without holding a valid administrator's license, may perform administrative, supervisory, or instructional leadership duties. The board of directors shall establish qualifications for persons that hold administrative, supervisory, or instructional leadership roles. The qualifications shall include at least the following areas: instruction and assessment; human resource and personnel management; financial management; legal and compliance management; effective communication; and board, sponsor, and community relationships. The board of directors shall use those qualifications as the basis for job descriptions, hiring, and performance evaluations of those who hold administrative, supervisory, or instructional leadership roles. The board of directors and an individual who does not hold a valid administrative license and who serves in an administrative, supervisory, or instructional leadership position shall develop a professional development plan. Documentation of the implementation of the professional development plan of these persons shall be included in the schools' annual report.

The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

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

Sec. 14. Minnesota Statutes 2008, section 124D.10, subdivision 14, is amended to read:

Subd. 14. **Annual public reports.** A charter school must publish an annual report at least annually to its sponsor and the commissioner the information required by the sponsor or the commissioner approved by the board of directors. The annual report must at least include information on school enrollment, student attrition, governance and management, staffing, finances, academic performance, operational performance, innovative practices and implementation, and future plans. A charter school must distribute the annual report by publication, mail, or electronic means to the commissioner, sponsor, school employees, and parents and legal guardians of students enrolled in the charter school and must also post the report on the charter school's official Web site. The reports are public data under chapter 13.

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

Sec. 15. Minnesota Statutes 2008, section 124D.10, subdivision 15, is amended to read:

Subd. 15. **Review and comment.** (a) ~~The department must review and comment on the evaluation, by the sponsor, of the performance of a charter school before the charter school's contract is renewed for another contract term. The sponsor must submit to the commissioner timely information for the review and comment~~ The sponsor shall provide a formal written evaluation of the school's performance before the sponsor renews the charter contract. The department must review and comment on the sponsor's evaluation process at the time the sponsor submits its application for approval and each time the sponsor undergoes its five-year review under subdivision 3, paragraph (e).

(b) A sponsor shall monitor and evaluate the fiscal, operational, and student performance of the

school, and may for this purpose annually assess a charter school: ~~(1) in its first, second, or third year of operation up to \$30 per student up to a maximum of \$10,000; and (2) in its fourth or a subsequent year of operation up to \$10 per student up to a maximum of \$3,500~~ a fee according to paragraph (c). The agreed upon fee structure must be stated in the charter school contract.

(c) The fee that each charter school pays to a sponsor each year is the greater of:

(1) the basic formula allowance for that year; or

(2) the lesser of:

(i) the maximum fee factor times the basic formula allowance for that year; or

(ii) 1.0 percent of the basic formula allowance for that year times the charter school's adjusted marginal cost pupil units for that year. The maximum fee factor equals 1.5 in fiscal year 2010, 2.0 in fiscal year 2011, 3.0 in fiscal year 2012, and 4.0 in fiscal years 2013 and later.

(d) The department and any charter school it sponsors must not assess or pay a fee under paragraphs (b) and (c).

(e) For the preoperational planning period, the sponsor may assess a charter school a fee equal to the basic formula allowance.

(f) By September 30 of each year, a sponsor shall submit to the commissioner a statement of expenditures related to sponsoring activities during the previous school year ending June 30. A copy of the statement shall be given to all schools chartered by the sponsor.

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

Sec. 16. Minnesota Statutes 2008, section 124D.10, subdivision 17, is amended to read:

Subd. 17. **Leased space.** A charter school may lease space from a an independent or special school board eligible to be a sponsor or other public or private nonprofit nonsectarian organization. The department must review and approve or disapprove the lease agreement within 60 business days of receiving an application for lease aid. If a charter school is unable to lease appropriate space from an eligible board or other public or private nonprofit nonsectarian organization, the school may lease space from another nonsectarian organization if the Department of Education, in consultation with the Department of Administration, approves the lease. If the school is unable to lease appropriate space from public or private nonsectarian organizations, the school may lease space from a sectarian organization if the leased space is constructed as a school facility and the Department of Education, in consultation with the Department of Administration, approves the lease.

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

Sec. 17. Minnesota Statutes 2008, section 124D.10, is amended by adding a subdivision to read:

Subd. 17a. **Building corporation.** (a) A charter school is prohibited from organizing the nonprofit building corporation until the sponsor files a supplementary affidavit with and receives approval from the commissioner.

(b) Upon approval by the sponsor and the commissioner, a charter school that has operated for at least three consecutive years and is not currently in statutory operating debt may form a separate

affiliated nonprofit building corporation to purchase or renovate an existing facility. The nonprofit building corporation must elect a board of directors. Members of the building corporation board of directors must not be members of the charter school board of directors. The state is immune from any liability as a result of the contractual arrangement and the facility. The sponsor shall submit a supplemental affidavit to the commissioner stating that the sponsor has reviewed:

- (1) the school's feasibility study on facility options;
- (2) documents showing the school's need and projected enrollment for such a facility; and
- (3) the school's financial plan and financial status.

(c) Upon approval by the sponsor and the commissioner, a charter school that has operated for at least eight consecutive years and is not currently in statutory operating debt may form a separate affiliated nonprofit building corporation to construct a school facility. The nonprofit building corporation must elect a board of directors. Members of the building corporation board of directors must not be members of the charter school board of directors. The state is immune from any liability as a result of the contractual arrangement and the facility. The sponsor shall submit a supplemental affidavit to the commissioner stating that the sponsor has reviewed:

- (1) the school's feasibility study on facility options;
- (2) documents showing the school's need and projected enrollment for such a facility;
- (3) the school's financial plan and financial status; and
- (4) the lack of other available existing facilities that could be renovated or purchased.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to building corporations formed after July 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 124D.10, subdivision 20, is amended to read:

Subd. 20. **Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave be made ~~up to 90 days before the teacher would otherwise have to report for duty~~ before February 1 in the school year preceding the school year in which the teacher wishes to begin the leave, or February 1 of the calendar year in which the teacher's leave is scheduled to terminate. Except as otherwise provided in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the Teachers' Retirement Association account ~~by paying both the employer and employee contributions based upon the annual salary of the teacher for the last full pay period before the leave began. The retirement association may impose reasonable requirements to efficiently administer this subdivision according to chapters 354 and 354A.~~

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

Sec. 19. Minnesota Statutes 2008, section 124D.10, subdivision 23, is amended to read:

Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a) The duration of the contract with a sponsor must be for the term contained in the contract according to subdivision 6. The sponsor may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the sponsor shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the sponsor within 14 15 business days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14-day 15-business-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable ten business days notice to the charter school's board of directors of the hearing date. The sponsor shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year. If the sponsor is a local board, the school's board of directors may appeal the sponsor's decision to the commissioner no later than 20 business days before the proposed date for terminating the contract or the end date of the contract.

(b) A contract may be terminated or not renewed upon any of the following grounds:

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;
- (3) violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed under this paragraph, the school must be dissolved according to the applicable provisions of chapter 308A or 317A, ~~except when the commissioner approves the decision of a different eligible sponsor to authorize the charter school.~~

(c) ~~If at the end of a contract term, either the sponsor or and the charter school board of directors wants mutually agree to voluntarily terminate or not renew the contract, a change in sponsors is allowed if the commissioner approves the decision of transfer to a different eligible sponsor to authorize the charter school. The party intending to terminate the contract must notify the other party and the commissioner of its intent at least 90 days before the date on which the contract ends. Both parties must jointly submit their intent in writing to the commissioner to mutually terminate the contract. The sponsor that is a party to the existing contract at least must inform the approved different eligible sponsor about the fiscal and operational status and student performance of the school. Before the commissioner determines whether to approve a transfer of sponsor, the commissioner first must determine whether the charter school and prospective new sponsor can identify and effectively resolve those circumstances causing the previous sponsor and the charter school to mutually agree to terminate the contract. If no different-eligible transfer of sponsor is approved, the school must be dissolved according to applicable law and the terms of the contract.~~

(d) The commissioner, after providing reasonable notice to the board of directors of a charter school and the existing sponsor, and after providing an opportunity for a public hearing, may

terminate the existing ~~sponsorial relationship~~ contract between the sponsor and the charter school if the charter school has a history of:

- (1) sustained failure to meet pupil performance requirements contained in the contract;
- (2) financial mismanagement or failure to meet generally accepted standards of financial management; or
- ~~(2)~~ (3) repeated or major violations of the law.

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

Sec. 20. Minnesota Statutes 2008, section 124D.10, subdivision 23a, is amended to read:

Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from entering a lease of real property with a related party ~~as defined in subdivision 26,~~ unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124D.11, subdivision 4, clause (1).

(b) For purposes of this section and section 124D.11:

(1) "related party" means an affiliate or a close relative of the other party in question, an affiliate of a close relative, or a close relative of an affiliate;

(2) "affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(3) "close relative" means an individual whose relationship by blood, marriage, or adoption to another individual is no more remote than first cousin;

(4) "person" means an individual or entity of any kind; and

(5) "control" means the ability to affect the management, operations, or policy actions or decisions of a person, whether through ownership of voting securities, by contract or otherwise.

(c) A lease of real property to be used for a charter school, not excluded in paragraph (a), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a."

~~(e)~~ (d) If a charter school enters into as lessee a lease with a related party and the charter school subsequently closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under section 124D.11, subdivision 4, clause (1).

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

Sec. 21. Minnesota Statutes 2008, section 124D.10, subdivision 25, is amended to read:

Subd. 25. **Extent of specific legal authority.** (a) The board of directors of a charter school may sue and be sued.

(b) The board may not levy taxes or issue bonds.

(c) The commissioner, a sponsor, members of the board of a sponsor in their official capacity, and employees of a sponsor are immune from civil or criminal liability with respect to all activities

related to a charter school they approve or sponsor. The board of directors shall obtain at least the amount of and types of insurance ~~required by the contract, according to subdivision 6~~ up to the applicable tort liability limits under chapter 466. The charter school board must submit a copy of the insurance policy to its sponsor and the commissioner before starting operations. The charter school board must submit changes in its insurance carrier or policy to its sponsor and the commissioner within 20 business days of the change.

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

Sec. 22. Minnesota Statutes 2008, section 124D.11, subdivision 4, is amended to read:

Subd. 4. **Building lease aid.** (a) When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purposes and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid for this purpose. The commissioner must review and either approve or deny a lease aid application using the following criteria:

- (1) the reasonableness of the price based on current market values;
- (2) the extent to which the lease conforms to applicable state laws and rules; and
- (3) the appropriateness of the proposed lease in the context of the space needs and financial circumstances of the charter school.

A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs.

(b) For a charter school without a separate affiliated nonprofit building corporation, the amount of building lease aid per pupil unit served for a charter school for any year shall not exceed the lesser of:

- ~~(a)~~ (1) 90 percent of the approved cost; or
- ~~(b)~~ (2) the product of the pupil units served for the current school year times the greater of:
 - (i) the charter school's building lease aid per pupil unit served for fiscal year 2003, excluding the adjustment under Laws 2002, chapter 392, article 6, section 4; or
 - (ii) \$1,200.

(c) For charter schools with a separate affiliated nonprofit building corporation under section 124D.10, subdivision 17a, the amount of building lease aid per pupil unit served for a charter school for any year shall not exceed the lesser of:

- (1) 90 percent of the approved cost; or
- (2) the product of the pupil units served for the current school year times the greater of:
 - (i) the charter school's building lease aid per pupil unit served for fiscal year 2003, excluding the adjustment under Laws 2002, chapter 392, article 6, section 4; or
 - (ii) \$1,200.

EFFECTIVE DATE. This section is effective for fiscal year 2010, and later.

Sec. 23. Minnesota Statutes 2008, section 124D.11, subdivision 9, is amended to read:

Subd. 9. **Payment of aids to charter schools.** (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school ~~not in its first year of operation~~ shall be of an equal amount on each of the ~~23~~ 24 payment dates. ~~A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall equal the current year aid payment percentage multiplied by the cumulative amount guaranteed.~~

(b) ~~Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing operation on or prior to the end of a school year, the current year aid payment percentage multiplied by the amount due for the school year may be paid to the school after audit of prior fiscal year and current fiscal year pupil counts June 30 of a school year, for the payment periods occurring after the school has ceased serving students, the commissioner shall withhold state aid due to the school based on estimated state aid entitlements. The charter school board of directors and sponsor must provide the commissioner with a closure plan under chapter 308A or 317A, and financial information that details the school's liabilities and assets. After receiving the closure plan, financial information, an audit of pupil counts, and documentation of lease expenditures, and monitoring special education expenditures, the commissioner may release cash withheld and may continue regular payments up to the current year payment percentages if further amounts are due. If, based on audits and monitoring, the school received state aid in excess of the amount due, the commissioner shall retain cash withheld sufficient to eliminate the aid overpayment. For a charter school ceasing operations prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may be made after receiving the closure plan, audit of pupil counts, monitoring of special education expenditures, and documentation of lease expenditures, and school submission of Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the final year of operation. Final payment may be made upon receipt of audited financial statements under section 123B.77, subdivision 3.~~

(c) ~~If a charter school fails to comply with the commissioner's directive to return, for cause, federal or state funds administered by the department, the commissioner may withhold an amount of state aid sufficient to satisfy the directive.~~

(d) ~~If a charter school, within the timeline under section 471.425, fails to pay a school district, intermediate school district, education cooperative, or the state after receiving an undisputed invoice for goods and services, the commissioner may withhold an amount of state aid sufficient to satisfy the claim and shall distribute the withheld aid to the school district, intermediate school district, or service cooperative. A school district, intermediate school district, education cooperative, or a representative of the state shall notify the commissioner when a charter school fails to pay an undisputed invoice within 75 business days of when it received the original invoice.~~

(e) ~~Notwithstanding section 127A.45, subdivision 3, and paragraph (a), 80 percent of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day of student attendance for that school year.~~

~~(d)~~ (f) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit a school calendar in the form and manner requested by the department and a quarterly report to the Department of Education. The report must list each student by grade, show the student's start and end dates, if any, with the charter school, and for any student

participating in a learning year program, the report must list the hours and times of learning year activities. The report must be submitted not more than two weeks after the end of the calendar quarter to the department. The department must develop a Web-based reporting form for charter schools to use when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit a school calendar and enrollment information to the department in the form and manner requested by the department.

~~(e)~~ (g) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter school and satisfaction of creditors, cash and investment balances remaining shall be returned to the state.

EFFECTIVE DATE. This section is effective for fiscal year 2010 and later.

Sec. 24. **SINGLE-PURPOSE SPONSOR.**

The commissioner shall approve at least one but no more than two charitable organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 whose sole purpose is to sponsor charter schools, consistent with Minnesota Statutes, section 124D.10, subdivision 3, paragraph (b), clause (5), by June 30, 2011.

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

Sec. 25. **REPEALER.**

Minnesota Statutes 2008, section 124D.10, subdivisions 18, 19, and 26, are repealed.

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

Amend the title accordingly

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 Stumpf from the Committee on Education, to which was referred

S.F. No. 1800: A bill for an act relating to education; clarifying school district obligations to children with disabilities; amending Minnesota Statutes 2008, section 125A.57, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 125A; repealing Minnesota Statutes 2008, section 125A.03.

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 2008, section 125A.02, is amended to read:

125A.02 CHILD WITH A DISABILITY DEFINED.

Subdivision 1. **Child with a disability.** ~~Every child who has~~ Child with a disability means a child evaluated in accordance with federal and state special education law as having a hearing impairment, blindness, visual disability, speech or language impairment, physical disability, other health impairment, mental disability, emotional/behavioral disorder, specific learning disability, autism, traumatic brain injury, multiple disabilities, or deaf/blind disability and who, by reason thereof, needs special instruction and education and related services, as determined by the standards

rules of the commissioner, is a child with a disability. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

Subd. 1a. **Children ages three through seven experiencing developmental delays.** In addition, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the ~~standards~~ rules of the commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

Subd. 2. **Not a child with a disability.** A child with a short-term or temporary physical or emotional illness or disability, as determined by the ~~standards~~ rules of the commissioner, is not a child with a disability.

Sec. 2. Minnesota Statutes 2008, section 125A.07, is amended to read:

125A.07 RULES OF COMMISSIONER RULEMAKING.

(a) ~~As defined in~~ Consistent with this paragraph section, the commissioner ~~must~~ shall ~~adopt new rules and amend existing rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and other necessary rules for instruction of children with a disability. These rules must provide standards and procedures appropriate for the implementation of and within the limitations of sections 125A.08 and 125A.091. These rules must also provide standards for the discipline, control, management, and protection of children with a disability. The commissioner must not adopt rules for pupils served primarily in the regular classroom establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The commissioner, in consultation with the Departments of Health and Human Services, must adopt permanent rules for instruction and services for children under age five and their families. These rules are binding on state and local education, health, and human services agencies. The commissioner must adopt rules to determine eligibility for special education services. The rules must include procedures and standards by which to grant variances for experimental eligibility criteria. The commissioner must, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the commissioner must specify the program standards used to evaluate the request and the reasons for denying the request related to children with disabilities only under specific authority and consistent with the requirements of chapter 14 and paragraph (c).~~

(b) As provided in this paragraph, the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the commissioner result in one or more of the following outcomes:

(1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction;

(2) consistent and uniform access to effective education programs for students with disabilities throughout the state;

(3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced

court actions related to the delivery of special education instruction and services for students with disabilities;

(4) clear expectations for service providers and for students with disabilities;

(5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;

(6) greater focus for the state and local resources dedicated to educating students with disabilities; and

(7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.

(c) Subject to chapter 14, the commissioner may adopt, amend, or rescind a rule related to children with disabilities if such action is specifically required by federal law.

Sec. 3. Minnesota Statutes 2008, section 125A.08, is amended to read:

125A.08 SCHOOL DISTRICT OBLIGATIONS INDIVIDUALIZED EDUCATION PROGRAMS.

(a) At the beginning of each school year, each school district shall have in effect, for each child with a disability, an individualized education program.

(b) As defined in this section, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The individual education plan team shall consider and may authorize services covered by medical assistance according to section 256B.0625, subdivision 26. The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education plan. The plan must address the student's need to develop skills to live and work as independently as possible within the community. The individual education plan team must consider positive behavioral interventions, strategies, and supports that address behavior for children with attention deficit disorder or attention deficit hyperactivity disorder. ~~By~~ During grade 9 ~~or age 14~~, the plan must address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;

(2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial assessment or reassessment, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used for the purposes of classification and placement of children with a disability are selected and administered so as not to be racially or culturally discriminatory; and

(7) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

~~(b)~~ (c) For paraprofessionals employed to work in programs for students with disabilities, the school board in each district shall ensure that:

(1) before or immediately upon employment, each paraprofessional develops sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs of the students with whom the paraprofessional works;

(2) annual training opportunities are available to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with whom the paraprofessional works, including understanding disabilities, following lesson plans, and implementing follow-up instructional procedures and activities; and

(3) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

Sec. 4. Minnesota Statutes 2008, section 125A.091, is amended to read:

125A.091 ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS.

~~Subdivision 1. **District obligation.** A school district must use the procedures in federal law and state law and rule to reach decisions about the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability.~~

~~Subd. 2. **Prior written notice.** A parent must receive prior written notice a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education to a child with a disability.~~

~~Subd. 3. **Content of notice.** The notice under subdivision 2 must:~~

- ~~(1) describe the action the district proposes or refuses;~~
- ~~(2) explain why the district proposes or refuses to take the action;~~
- ~~(3) describe any other option the district considered and the reason why it rejected the option;~~
- ~~(4) describe each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;~~
- ~~(5) describe any other factor affecting the proposal or refusal of the district to take the action;~~
- ~~(6) state that the parent of a child with a disability is protected by procedural safeguards and, if this notice is not an initial referral for evaluation, how a parent can get a description of the procedural safeguards; and~~
- ~~(7) identify where a parent can get help in understanding this law.~~

Subd. 4. **Understandable notice.** ~~(a) The written notice under subdivision 2 must be understandable to the general public and available in the parent's native language or by another communication form, unless it is clearly not feasible to do so.~~

~~(b) If the parent's native language or other communication form is not written, the district must take steps to ensure that:~~

- ~~(1) the notice is translated orally or by other means to the parent in the parent's native language or other communication form;~~
- ~~(2) the parent understands the notice; and~~
- ~~(3) written evidence indicates the requirements in subdivision 2 are met.~~

Subd. 5. **Initial action; parent consent.** (a) The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

(b) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless section 144.344 applies.

Subd. 6. **Dispute resolution processes; generally.** Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes under this section are provided at no cost to the parent.

Subd. 7. **Conciliation conference.** A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice under subdivision 2 3a. If the parent refuses district efforts to conciliate the

dispute, the conciliation requirement is satisfied. Following a conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.

Subd. 8. **Voluntary dispute resolution options.** In addition to offering at least one conciliation conference, a district must inform a parent of other dispute resolution processes, including at least mediation and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under federal special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.

Subd. 9. **Mediation.** Mediation is a dispute resolution process that involves a neutral party provided by the state to assist a parent and a district in resolving disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability. A mediation process is available as an informal alternative to a due process hearing but must not be used to deny or postpone the opportunity of a parent or district to obtain a due process hearing. Mediation is voluntary for all parties. All mediation discussions are confidential and inadmissible in evidence in any subsequent proceeding, unless the:

- (1) parties expressly agree otherwise;
- (2) evidence is otherwise available; or
- (3) evidence is offered to prove bias or prejudice of a witness.

Subd. 10. **Mediated agreements.** ~~Mediated agreements are not admissible unless the parties agree otherwise or a party to the agreement believes the agreement is not being implemented, in which case the aggrieved party may enter the agreement into evidence at a due process hearing. The parties may request another mediation to resolve a dispute over implementing the mediated agreement. After a due process hearing is requested, a party may request mediation and the commissioner must provide a mediator who conducts a mediation session no later than the third business day after the mediation request is made to the commissioner. If the parties resolve all or a portion of the dispute, or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing, signed by the parties, and a copy is given to each party. The written resolution or agreement shall state that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding. The resolution or agreement is legally binding upon the parties and is enforceable in the state or federal district court. A party may request another mediation to resolve a dispute over implementing the mediated agreement.~~

Subd. 11. **Facilitated team meeting.** A facilitated team meeting is an IEP, IFSP, or IIP team meeting led by an impartial state-provided facilitator to promote effective communication and assist a team in developing an individualized education plan.

Subd. 12. **Impartial due process hearing.** ~~(a)~~ A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or

the provision of a free appropriate public education to a child with a disability. The hearing must be held in the district responsible for ensuring that a free appropriate public education is provided according to state and federal law. The proceedings must be recorded and preserved, at state expense, pending ultimate disposition of the action. The parent and the district shall receive, at state expense, a copy of the hearing transcript or recording and the hearing officer's findings of fact, conclusion of law, and decisions.

~~(b) The due process hearing must be conducted according to the rules of the commissioner and federal law.~~

Subd. 13. **Hearing officer qualifications.** ~~The commissioner must appoint an individual who is qualified under this subdivision to serve as a hearing officer.~~ The commissioner shall maintain a list of qualified hearing officers who are not employees of or otherwise under contract with the department or the school district except when under contract with the department as a hearing officer, and who do not have a personal or professional interest that conflicts with their objectivity when serving as hearing officers in hearings under this section. The list shall include a statement of the qualifications of each person listed. A hearing officer must know and understand state and federal special education laws, rules, and regulations, and legal interpretations by federal and state courts. A hearing officer also must have the knowledge and ability to conduct hearings and render and write decisions according to appropriate, standard legal practice. Upon receipt of a written request for a hearing, the commissioner shall appoint a hearing officer from the list. The hearing officer must:

- (1) be knowledgeable and impartial;
- (2) have no personal interest in or specific involvement with the student who is a party to the hearing;
- (3) not have been employed as an administrator by the district that is a party to the hearing;
- (4) not have been involved in selecting the district administrator who is a party to the hearing;
- (5) have no personal, economic, or professional interest in the outcome of the hearing other than properly administering federal and state laws, rules, and policies;
- (6) have no substantial involvement in developing state or local policies or procedures challenged in the hearing;
- (7) not be a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, or the department if the department is the service provider; and
- (8) not be a current employee or board member of a disability advocacy organization or group.

Subd. 14. **Request for hearing.** ~~A request for a due process hearing must:~~

- ~~(1) be in writing;~~
- ~~(2) describe the nature of the dispute about providing special education services to the student including facts relating to the dispute; and~~
- ~~(3) state, to the extent known, the relief sought.~~

~~Any school district administrator receiving a request for a due process hearing must immediately forward the request to the commissioner. Within two business days of receiving a request for a due process hearing, the commissioner must appoint a hearing officer. The commissioner must not deny a request for hearing because the request is incomplete. A party may disqualify a hearing officer only by affirmatively showing prejudice or bias to the commissioner or to the chief administrative law judge if the hearing officer is an administrative law judge. If a party affirmatively shows prejudice against a hearing officer, the commissioner must assign another hearing officer to hear the matter.~~

(a) A parent or a school district may file a written request for a due process hearing regarding a proposal or refusal to initiate or change that child's evaluation, individualized education program, or educational placement, or to provide a free appropriate public education.

(b) The parent shall include in the hearing request the name of the child, the address of the child's residence, the name of the school the child attends, a description of the child's problem relating to the proposed or refused initiation or change, including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the parents at the time.

(c) A parent or a school district may file a written request for a hearing under United States Code, title 20, section 1415, paragraph (k).

(d) A parent or school district filing a request for a hearing under this subdivision must provide the request to the other party and a copy of the request to the department. Upon receiving a request for a hearing, the department shall give to the child's parent a copy of the procedural safeguards notice available to a parent under federal regulations.

(e) (1) If the parent of a child with a disability files a written request for a hearing, and the school district has not previously sent a written notice to the parent under subdivision 3, regarding the subject matter of the hearing request, the school district shall, within ten days of receiving the hearing request, send to the child's parent a written explanation of why the school district proposed or refused to take the action raised in the hearing request, a description of other options that the individualized education program team considered and the reason why those options were rejected, a description of each evaluation procedure, assessment, record, or report that the school district used as the basis for the proposed or refused action, and a description of the factors that are relevant to the school district's proposal or refusal. A response by a school district under this subdivision does not preclude the school district from asserting that the parent's request for a hearing is insufficient under clause (2) of this paragraph.

(2) A hearing may not occur until the party requesting the hearing files a request that meets the requirements of paragraph (b). The request under paragraph (b) is considered sufficient unless the party receiving the request notifies the hearing officer and the other party in writing within 15 days of receiving the request that the receiving party believes the request does not meet the requirements of paragraph (b). Within five days of receiving a notice under this subdivision, the hearing officer shall determine whether the request meets the requirements under paragraph (b) and notify the parties.

(f) Except as provided in paragraph (e), clause (1), the party receiving a request for a hearing shall send to the party requesting the hearing a written response that addresses the issues raised in the hearing request within ten days of receiving the request.

Subd. 15. Prehearing conference. A prehearing conference must be held within five business days of the date the commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by

telephone. The hearing officer must create a written verbatim record of the prehearing conference which is available to either party upon request. At the prehearing conference, the hearing officer must:

- (1) identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;
- (2) set a scheduling order for the hearing and additional prehearing activities;
- (3) determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and
- (4) establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

Subd. 16. **Burden of proof.** The burden of proof at a due process hearing is on the district to demonstrate, by a preponderance of the evidence, that it is complying with the law and offered or provided a free appropriate public education to the child in the least restrictive environment. If the district has not offered or provided a free appropriate public education in the least restrictive environment and the parent wants the district to pay for a private placement, the burden of proof is on the parent to demonstrate, by a preponderance of the evidence, that the private placement is appropriate party seeking relief.

Subd. 17. **Admissible evidence.** The hearing officer may admit all evidence that possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in conducting their serious affairs. The hearing officer must give effect to the rules of privilege recognized by law and exclude evidence that is incompetent, irrelevant, immaterial, or unduly repetitious.

Subd. 18. **Hearing officer authority.** (a) A hearing officer must limit an impartial due process hearing to the time sufficient for each party to present its case.

(b) A hearing officer must establish and maintain control and manage the hearing. This authority includes, but is not limited to:

(1) requiring attorneys representing parties at the hearing, after notice and an opportunity to be heard, to pay court reporting and hearing officer costs, or fines payable to the state, for failing to: (i) obey scheduling or prehearing orders, (ii) appear, (iii) be prepared, or (iv) participate in the hearing process in good faith;

(2) administering oaths and affirmations;

(3) issuing subpoenas;

(4) determining the responsible and providing districts and joining those districts, if not already notified, in the proceedings;

(5) making decisions involving identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability; ~~and~~

(6) ordering an independent educational evaluation of a child at district expense; and

(7) extending the hearing decision timeline for good cause shown.

(c) Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

Subd. 19. **Expedited due process hearings.** Consistent with federal law, a parent has the right to or a school district may file a written request for an expedited due process hearing when there is a dispute over a manifestation determination or a proposed or actual placement in an interim alternative educational setting. A district has the right to an expedited due process hearing when proposing or seeking to maintain placement in an interim alternative educational setting. A hearing officer must hold an expedited due process hearing within 20 school days of the date the expedited due process request is filed and must issue a decision within ten calendar school days of after the request for a hearing. A hearing officer may extend by up to five additional calendar days the time for issuing a decision in an expedited due process hearing. All policies in this section apply to expedited due process hearings to the extent they do not conflict with federal law. A resolution meeting must occur within seven days of receiving the request for an expedited due process hearing unless the parent and the school district agree in writing either to waive the resolution meeting or use the mediation process. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the expedited due process hearing request.

Subd. 20. **Hearing officer's decision; time period.** (a) The hearing officer must issue a decision within 45 calendar days of the date on which the commissioner receives the request for a due process hearing. A hearing officer is encouraged to accelerate the time line to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute. A hearing officer may not extend the time beyond the 45-day period unless requested by either party for good cause shown on the record. Extensions of time must not exceed a total of 30 calendar days unless both parties and the hearing officer agree or time is needed to complete an independent educational evaluation. Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

(b) The hearing officer's decision must:

(1) be in writing;

(2) state the controlling and material facts upon which the decision is made in order to apprise the reader of the basis and reason for the decision; and

(3) be based on local standards, state statute, the rules of the commissioner, and federal law.

(b) Once the hearing officer has issued a final decision, the hearing officer lacks authority to amend the decision except for clerical or mathematical errors.

(c) Nothing in this subdivision precludes a hearing officer from ordering a school district to comply with federal procedural safeguards under the federal Individuals with Disabilities Education Act.

Subd. 21. **Compensatory educational services.** The hearing officer may require the resident or responsible district to provide compensatory educational services to the child if the hearing officer

finds that the district has not offered or made available to the child a free appropriate public education in the least restrictive environment and the child suffered a loss of educational benefit. Such services take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding must be based on a present determination of whether the child has suffered a loss of educational benefit.

~~Subd. 22. **Child's educational placement during due process hearing.** (a) Until a due process hearing under this section is completed or the district and the parent agree otherwise, the child must remain in the child's current educational placement and must not be denied initial admission to school.~~

~~(b) Until an expedited due process hearing challenging an interim alternative educational placement is completed, the child must remain in the interim alternative educational setting until the decision of the hearing officer or the expiration of the 45 days permitted for an interim alternative educational setting, whichever occurs first, unless the parent and district agree otherwise.~~

~~Subd. 23. **Implementation of hearing officer order.** (a) That portion of a hearing officer's decision granting relief requested by the parent must be implemented upon issuance.~~

~~(b) Except as provided under paragraph (a) or the district and parent agree otherwise, following a hearing officer's decision granting relief requested by the district, the child must remain in the current educational placement until the time to request judicial review under subdivision 24 expires or, if judicial review is requested, at the time the Minnesota Court of Appeals or the federal district court issues its decision, whichever is later.~~

Subd. 24. **Review of hearing officer decisions.** The parent or district may seek review of the hearing officer's decision in the Minnesota Court of Appeals or in the federal district court, consistent with federal law. A party must appeal to the Minnesota Court of Appeals within 60 days of receiving the hearing officer's decision.

Subd. 25. **Enforcement of orders.** The commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer ~~orders~~ decisions.

Subd. 26. **Hearing officer and person conducting alternative dispute resolution are state employees.** A hearing officer or person conducting alternative dispute resolution under this section is an employee of the state under section 3.732 for purposes of section 3.736 only.

Subd. 27. **Hearing officer training.** A hearing officer must participate in training ~~and follow procedures established~~ offered by the commissioner.

Subd. 28. **District liability.** A district is not liable for harmless technical violations of ~~this section or rules implementing this section~~ federal or state laws, rules, or regulations governing special education if the school district can demonstrate ~~on a case-by-case basis~~ that the violations did not harm a student's educational progress or the parent's right to notice, participation, or due process. This subdivision is applicable to due process hearings and special education complaints filed with the department.

Sec. 5. Minnesota Statutes 2008, section 125A.57, subdivision 2, is amended to read:

Subd. 2. **Assistive technology device.** "Assistive technology device" means any item, piece of equipment, software, or product system, whether acquired commercially off the shelf, modified, or

customized, that is used to increase, maintain, or improve functional capabilities of ~~children with disabilities~~ a child with a disability. The term does not include a medical device that is surgically implanted or a replacement of such a device.

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

Sec. 6. **REPEALER.**

Minnesota Statutes 2008, sections 121A.43; 125A.05; and 125A.18, are repealed.

Minnesota Rules, parts 3525.0210, subparts 34 and 43; 3525.0400; 3525.2445; and 3525.4220, are repealed."

Amend the title accordingly

And when so amended the bill be re-referred to the Committee on Judiciary without recommendation. Amendments adopted. Report adopted.

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

S.F. No. 1394: A bill for an act relating to human services; modifying licensing disqualifications; amending Minnesota Statutes 2008, section 245C.24, subdivision 2.

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. 1435: A bill for an act relating to health occupations; changing provisions on licensure of nutritionists; amending Minnesota Statutes 2008, section 148.624, subdivision 2; repealing Minnesota Statutes 2008, section 148.627, subdivisions 1, 2, 3, 4, 5.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 1154: A bill for an act relating to occupations and professions; changing licensing provisions for social work; reducing certain fees; amending Minnesota Statutes 2008, sections 148D.010, subdivisions 9, 15, by adding subdivisions; 148D.025, subdivisions 2, 3; 148D.061, subdivisions 6, 8; 148D.062, subdivision 2; 148D.063, subdivision 2; 148D.125, subdivisions 1, 3; 148D.180, subdivisions 1, 2, 3, 5; 148E.010, subdivisions 11, 17, by adding subdivisions; 148E.025, subdivisions 2, 3; 148E.055, subdivision 5; 148E.100, subdivisions 3, 4, 5, 6, 7, by adding a subdivision; 148E.105, subdivisions 1, 3, 5, 7, by adding a subdivision; 148E.106, subdivisions 1, 2, 3, 4, 5, 8, 9, by adding a subdivision; 148E.110, subdivisions 1, 2, by adding subdivisions; 148E.115, subdivision 1, by adding a subdivision; 148E.120; 148E.125, subdivisions 1, 3; 148E.130, subdivisions 2, 5, by adding a subdivision; 148E.165, subdivision 1; 148E.180, subdivisions 1, 2, 3, 5; repealing Minnesota Statutes 2008, sections 148D.062, subdivision 5;

148D.125, subdivision 2; 148D.180, subdivision 8; 148E.106, subdivision 6; 148E.125, subdivision 2.

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

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

S.F. No. 1022: A bill for an act relating to human services; directing ombudsman for long-term care to expand volunteer ombudsman program; appropriating money.

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

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

S.F. No. 339: A bill for an act relating to health; requiring coverage for plasma protein therapies and home nursing services; requiring medical assistance coverage of plasma protein therapies; amending Minnesota Statutes 2008, section 256B.0625, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 62Q; 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. **[151.58] PHARMACIES PROVIDING PLASMA PROTEIN THERAPIES.**

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

(b) "Assay" means the amount of a particular constituent of a mixture or of the biological or pharmacological potency of a drug.

(c) "Ancillary infusion equipment and supplies" means the equipment and supplies required to infuse a plasma protein therapy into a human vein including, but not limited to, syringes, needles, sterile gauze, field pads, gloves, alcohol swabs, numbing creams, tourniquets, medical tape, sharps or equivalent biohazard waste containers, and cold compression packs.

(d) "Plasma protein therapy" means a medicine manufactured from human plasma or recombinant biotechnology techniques, approved for distribution by the federal Food and Drug Administration, that is used for the treatment and prevention of symptoms associated with alpha₁-antitrypsin deficiency, primary immunodeficiency diseases, and von Willebrand disease.

(e) "Home nursing services" means specialized nursing care provided in the home setting to assist a patient in the reconstitution and administration of plasma protein therapies.

(f) "Home use" means infusion or other use of a plasma protein therapy in a place other than a hemophilia treatment center, hospital, emergency room, physician's office, outpatient infusion facility, or clinic.

(g) "Pharmacy" means a pharmacy that provides patients with plasma protein therapies and ancillary infusion equipment and supplies.

Subd. 2. **Rules for standards of care.** The Board of Pharmacy shall promulgate rules that govern standards of pharmaceutical services for individuals needing plasma protein therapies. The rules shall include when feasible the standards established by the medical advisory committees of the patient groups and professional societies representing individuals with primary immunodeficiency diseases, alpha₁-antitrypsin deficiency, and von Willebrand disease. The rules shall include safeguards to ensure the pharmacy provides:

(1) all brands of plasma protein therapies needed by the patients served that are approved by the federal Food and Drug Administration in all available assays and vial sizes;

(2) the shipment of prescribed plasma protein therapies to the patient within:

(i) two business days or less, for established patients once coverage is verified;

(ii) three business days or less for new patients in nonemergency situations; and

(iii) in cases of emergency, within the time necessary to meet the patient's need;

(3) all necessary ancillary infusion equipment and supplies for administration of plasma protein therapies;

(4) coordination of pharmacy services with home nursing services when home nursing services are deemed necessary by the treating physician; and

(5) patients who have received plasma protein therapies with a designated contact telephone number for emergency refills and for reporting problems with a delivery or product."

Delete the title and insert:

"A bill for an act relating to health; requiring the Board of Pharmacy to adopt rules to govern pharmaceutical services for individuals needing plasma protein therapies; 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 State and Local Government Operations and Oversight. Amendments adopted. Report adopted.

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

S.F. No. 441: A bill for an act relating to health; requiring hospitals to develop staffing levels for direct care registered nurses; amending Minnesota Statutes 2008, section 144.7067, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 144.7065, subdivision 8, is amended to read:

Subd. 8. **Root cause analysis; corrective action plan.** Following the occurrence of an adverse

health care event, the facility must conduct a root cause analysis of the event. In conducting the root cause analysis, the facility must consider as one of the factors staffing levels and the impact of staffing levels on the event. Following the analysis, the facility must: (1) implement a corrective action plan to implement the findings of the analysis or (2) report to the commissioner any reasons for not taking corrective action. If the root cause analysis and the implementation of a corrective action plan are complete at the time an event must be reported, the findings of the analysis and the corrective action plan must be included in the report of the event. The findings of the root cause analysis and a copy of the corrective action plan must otherwise be filed with the commissioner within 60 days of the event.

Sec. 2. Minnesota Statutes 2008, section 144.7065, subdivision 10, is amended to read:

Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that is not reasonably explained" under section 626.556 or 626.557 and are excluded from the reporting requirements of sections 626.556 and 626.557, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section 626.556, subdivision 3, or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section 626.556, subdivision 3, or 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under sections 626.556 and 626.557 are not affected by this section.

(d) Notwithstanding section 626.556, 626.557, or any other provision of Minnesota statute or rule to the contrary, neither a lead agency under section 626.556, subdivision 3c, or 626.5572, subdivision 13, the commissioner of health, nor the director of the Office of Health Facility Complaints is required to conduct an investigation of or obtain or create investigative data or reports regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements described in paragraph (a), the review or investigation shall be conducted and data or reports shall be obtained or created only under sections 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or as necessary to carry out the state's certification responsibility under the provisions of sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports to the facility an event required to be reported under subdivisions 2 to 6, in a timely manner, the provider's licensing board is not required to conduct an investigation of or obtain or create investigative data or reports regarding the individual reporting of the events described in subdivisions 2 to 6.

(e) Data contained in the following records are nonpublic and, to the extent they contain data on individuals, confidential data on individuals, as defined in section 13.02:

(1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267, 151.301, and 153.255;

(2) event reports, findings of root cause analyses, and corrective action plans filed by a facility

under this section; and

(3) records created or obtained by the commissioner in reviewing or investigating the reports, findings, and plans described in clause (2).

For purposes of the nonpublic data classification contained in this paragraph, the reporting facility shall be deemed the subject of the data.

Sec. 3. HEALTH DEPARTMENT WORKGROUP; HOSPITAL ASSOCIATION COMMITTEES.

(a) The commissioner of health shall consult with representatives from the Minnesota Nurses Association, the Minnesota Hospital Association, and other stakeholders to further define staffing levels for purposes of Minnesota Statutes, section 144.7065, subdivision 8, and to develop questions related to staffing for inclusion in the root cause analysis tool required under that subdivision.

(b) The Minnesota Nurses Association and the Minnesota Hospital Association shall develop a memorandum of understanding that outlines ways to include representatives from the Minnesota Nurses Association on Minnesota Hospital Association work groups and committees dealing with adverse health care events and corrective action plans under Minnesota Statutes, section 144.7065."

Delete the title and insert:

"A bill for an act relating to health; modifying the adverse health event reporting system; modifying root cause analysis; requiring reports on hospital staff reductions resulting from state spending decisions; amending Minnesota Statutes 2008, section 144.7065, subdivisions 8, 10."

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. 1445: A bill for an act relating to health; modifying provisions in health occupations for speech language pathologists and occupational therapists; expanding definition of licensed health care professional; changing provisions for food, beverage, and lodging establishments; requiring the Department of Health to use rules and guidelines from the federal government to implement the minimum data set for resident reimbursement classification; establishing fees; amending Minnesota Statutes 2008, sections 148.512, subdivision 13; 148.5193, subdivision 6a; 148.5194, subdivisions 2, 3, 7; 148.6402, subdivisions 13, 22a; 148.6405; 148.6440, subdivision 2; 157.16, subdivisions 2, 4; repealing Minnesota Rules, parts 4610.0420; 4610.0500, subparts 1, 2, 3, 5; 4610.0600, subparts 1, 3, 4; 4610.0650.

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

Page 7, line 25, after "guidelines" insert "when they are"

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. 1220: A bill for an act relating to health; expanding the definition for standard reference compendia; amending Minnesota Statutes 2008, section 62Q.525, subdivision 2.

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

Page 1, line 20, after "means" insert "any one of the following"

Page 2, after line 4, insert:

"Sec. 2. Minnesota Statutes 2008, section 62Q.525, subdivision 3, is amended to read:

Subd. 3. **Required coverage.** (a) Every type of coverage included in subdivision 1 that provides coverage for drugs may not exclude coverage of a drug for the treatment of cancer on the ground that the drug has not been approved by the federal Food and Drug Administration for the treatment of cancer if the drug is recognized for treatment of cancer in ~~one of~~ one of the standard reference compendia adopted by the health plan on an annual basis or in one article in the medical literature, as defined in subdivision 2.

(b) Coverage of a drug required by this subdivision includes coverage of medically necessary services directly related to and required for appropriate administration of the drug.

(c) Coverage required by this subdivision does not include coverage of a drug not listed on the formulary of the coverage included in subdivision 1.

(d) Coverage of a drug required under this subdivision must not be subject to any co-payment, coinsurance, deductible, or other enrollee cost-sharing greater than the coverage included in subdivision 1 applies to other drugs.

(e) The commissioner of commerce or health, as appropriate, may direct a person that issues coverage included in subdivision 1 to make payments required by this section."

Amend the title 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. 1709: A bill for an act relating to public safety; establishing the statewide Minnesota prescription program; requiring use of tamper-resistant prescription drug forms; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 151.

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

Page 1, line 11, delete the first "prescription" and insert "prescribing" and delete "fill" and insert "dispense"

Page 1, line 18, delete "prescription" and insert "prescribing"

Page 2, line 20, after the semicolon, insert "and"

Page 2, line 22, delete "; and" and insert a period

Page 2, delete line 23

Page 2, delete section 5

Page 3, line 6, after "the" insert "Department of Health or the"

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. 1766: A bill for an act relating to human services; creating chemical health pilot projects; requiring reports.

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

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

S.F. No. 2: A bill for an act relating to state government; specifying the development of budget recommendations and requiring state agencies to provide information; requiring disclosure of status of fiscal note requests; modifying state budget requirements; requiring a forecast of cash flow for the general fund; specifying format for detailed budget estimates of expenditures; imposing deadline for notice of deficiency requests; providing additional whistleblower protection to state employees; requiring a budget working group; eliminating obsolete requirements; amending Minnesota Statutes 2008, sections 3.885, by adding a subdivision; 3.98, subdivision 4; 3.987, subdivision 1; 16A.10, subdivisions 1, 2; 16A.11, subdivision 3, by adding a subdivision; 181.932, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16A; 43A; repealing Minnesota Statutes 2008, section 16A.152, subdivision 1b.

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

Page 6, line 13, delete "an employee in the legislative branch" and insert "the legislative auditor"

Page 6, line 14, delete "an elected official in the executive branch" and insert "a constitutional officer"

Page 6, line 23, after the period, insert "The appointing authorities from the legislative branch must complete their designations by July 1, 2009."

Page 6, line 26, after "recommendations" insert ", including draft legislation, if necessary,"

Page 6, after line 30, insert:

"The working group expires when the commissioner submits the report required by this section."

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 referred

S.F. No. 1036: A bill for an act relating to state government; ratifying state labor contracts.

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

Page 2, after line 14, insert:

"Subd. 10. **State university faculty.** The settlement agreement between the state of Minnesota and the interfaculty organization, recommended for approval by the Legislative Coordinating Commission Subcommittee on Employee Relations on March 23, 2009, is ratified."

Page 2, delete line 16 and insert "Section 1, subdivision 1 to 9, are effective the day following final enactment. Section 1, subdivision 10, is effective July 1, 2009."

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 referred

S.F. No. 260: A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; requiring state partisan primary ballots to designate candidates receiving a certain level of support at state party endorsing conventions as "endorsed"; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 204B.14, subdivisions 2, 4; 204B.21, subdivision 1; 204B.33; 204B.35, subdivision 4; 204C.26, subdivision 3; 204D.03, subdivision 1; 204D.08, subdivision 4; 205.065, subdivision 1; 205.13, subdivision 1a; 205A.03, subdivision 2; 205A.06, subdivision 1a; 206.82, subdivision 2; 211B.045; 447.32, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 204B.

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 2008, section 10A.31, subdivision 6, is amended to read:

Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after certification by the State Canvassing Board of the results of the primary, the board must distribute the available money in each party account, as certified by the commissioner of revenue ~~on September 1~~ one week before the state primary, to the candidates of that party who have signed a spending limit agreement under section 10A.322 and filed the affidavit of contributions required by section 10A.323, who were opposed in either the primary election or the general election, and whose names are to appear on the ballot in the general election, according to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party account may not be paid in an amount greater than the expenditure limit of the candidate or the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10. ~~If a candidate files the affidavit required by section 10A.323 after September 1 of the general election year, the board must pay the candidate's allocation to the candidate at the next regular payment date for public subsidies~~

~~for that election cycle that occurs at least 15 days after the candidate files the affidavit.~~

Sec. 2. Minnesota Statutes 2008, section 10A.321, is amended to read:

10A.321 ESTIMATES OF MINIMUM AMOUNTS TO BE RECEIVED.

Subdivision 1. **Calculation and certification of estimates.** The commissioner of revenue must calculate and certify to the board one week before July 1 the first day for filing for office in each election year an estimate of the total amount in the state general account of the state elections campaign fund and the amount of money each candidate who qualifies, as provided in section 10A.31, subdivisions 6 and 7, may receive from the candidate's party account in the state elections campaign fund. This estimate must be based upon the allocations and formulas in section 10A.31, subdivisions 5 and 5a, any necessary vote totals provided by the secretary of state to apply the formulas in section 10A.31, subdivisions 5 and 5a, and the amount of money expected to be available after 100 percent of the tax returns have been processed.

Subd. 2. **Publication, certification, and notification procedures.** Before the first day of filing for office, the board must publish and forward to all filing officers the estimates calculated and certified under subdivision 1 along with a copy of section 10A.25, subdivision 10. ~~Within seven days~~ one week after the last day for filing for office, the secretary of state must certify to the board the name, address, office sought, and party affiliation of each candidate who has filed with that office an affidavit of candidacy or petition to appear on the ballot. The auditor of each county must certify to the board the same information for each candidate who has filed with that county an affidavit of candidacy or petition to appear on the ballot. ~~By August 15~~ Within two weeks after the last day for filing for office, the board must notify all candidates of their estimated minimum amount. The board must include with the notice a form for the agreement provided in section 10A.322 along with a copy of section 10A.25, subdivision 10.

Sec. 3. Minnesota Statutes 2008, section 10A.322, subdivision 1, is amended to read:

Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board ~~by September 1 preceding the candidate's general election or a special election held at the general election~~ at least three weeks before the candidate's state primary. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement signed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement not later than the day after the candidate files the affidavit of candidacy or nominating petition for the office.

Sec. 4. Minnesota Statutes 2008, section 10A.323, is amended to read:

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that ~~during that calendar year~~ between January 1 of the election year and the cutoff date for transactions included in the report of receipts and expenditures due before the primary election, the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first \$50 received from each contributor:

- (1) candidates for governor and lieutenant governor running together, \$35,000;
- (2) candidates for attorney general, \$15,000;
- (3) candidates for secretary of state and state auditor, separately, \$6,000;
- (4) candidates for the senate, \$3,000; and
- (5) candidates for the house of representatives, \$1,500.

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of \$50.

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by the ~~cutoff date~~ deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

A candidate for a vacancy to be filled at a special election for which the filing period does not coincide with the filing period for the general election must submit the affidavit required by this section to the board within five days after filing the affidavit of candidacy.

Sec. 5. Minnesota Statutes 2008, section 103C.305, subdivision 1, is amended to read:

Subdivision 1. **Time for election.** Elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary ~~may not~~ must be held if there are more than two candidates for any available supervisor position.

Sec. 6. Minnesota Statutes 2008, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. **Candidates in state and county general elections.** (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filed at the state general election shall be filed not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10.

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other candidates for presidential electors may file petitions on or before the state primary day pursuant to section 204B.07. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the

last day for filing.

(d) Affidavits and petitions for county offices must be filed with the county auditor of that county. Affidavits and petitions for federal offices must be filed with the secretary of state. Affidavits and petitions for state offices must be filed with the secretary of state or with the county auditor of the county in which the candidate resides.

(e) Affidavits other than those filed pursuant to subdivision 1a must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and must be received by 5:00 p.m. on the last day for filing.

Sec. 7. Minnesota Statutes 2008, section 204B.14, subdivision 2, is amended to read:

Subd. 2. **Separate precincts; combined polling place.** (a) The following shall constitute at least one election precinct:

- (1) each city ward; and
- (2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than June 1 of ~~any~~ an odd-numbered year and no later than 14 weeks before the state primary in an even-numbered year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for two contiguous precincts in the same municipality that have a combined total of fewer than 500 registered voters;

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 200.02, subdivision 24, that are contained in the same county; or

(4) for noncontiguous precincts located in one or more counties.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A polling place combined under clause (4) must be approved by the governing body of each participating municipality and the secretary of state and may be located outside any of the noncontiguous precincts. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than May 1 of ~~any~~ an odd-numbered year and no later than 18 weeks before the state primary in an even-numbered year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters,

in which case the results of that precinct must be reported in the manner specified by the secretary of state.

Sec. 8. Minnesota Statutes 2008, section 204B.14, subdivision 4, is amended to read:

Subd. 4. **Boundary change procedure.** Any change in the boundary of an election precinct shall be adopted at least 90 days before the date of the next election and, for the state primary and general election, no later than ~~June 1~~ 14 weeks before the state primary in the year of the state general election. The precinct boundary change shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least 60 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days prior to the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision, and procedures for coordinating precinct boundary changes with reestablishing local government election district boundaries may be established in the manner provided in the rules of the secretary of state.

Sec. 9. Minnesota Statutes 2008, section 204B.21, subdivision 1, is amended to read:

Subdivision 1. **Appointment lists; duties of political parties and county auditor.** ~~On June 1~~ Within two weeks after the precinct caucuses in a year in which there is an election for a partisan political office, the county or legislative district chairs of each major political party, whichever is designated by the state party, shall prepare a list of eligible voters to act as election judges in each election precinct in the county or legislative district. The chairs shall furnish the lists to the county auditor of the county in which the precinct is located.

~~By June 15~~ Within four weeks after the precinct caucuses, the county auditor shall furnish to the appointing authorities a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party.

Sec. 10. Minnesota Statutes 2008, section 204B.33, is amended to read:

204B.33 NOTICE OF FILING.

(a) ~~Between June 1 and July 1 in each even-numbered year~~ At least 15 weeks before the state primary, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed

in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

Sec. 11. Minnesota Statutes 2008, section 204B.35, subdivision 4, is amended to read:

Subd. 4. **Absentee ballots; preparation; delivery.** At least 45 days before a state primary or the state general election and at least 30 days before other elections, ballots necessary to fill applications of absentee voters shall be prepared and delivered at least 30 days before the election to the officials who administer the provisions of chapter 203B.

This section applies to school district elections held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

Sec. 12. Minnesota Statutes 2008, section 204C.26, subdivision 3, is amended to read:

Subd. 3. **Secretary of state.** ~~On or before July 1 of~~ No later than ten weeks before the state primary in each even-numbered year, the secretary of state shall prescribe the form for summary statements of election returns and the methods by which returns for the state primary and state general election shall be recorded by precinct, county, and state election officials. Each county auditor and municipal or school district clerk required to furnish summary statements shall prepare them in the manner prescribed by the secretary of state. The summary statement of the primary returns shall be in the same form as the summary statement of the general election returns except that a separate part of the summary statement shall be provided for the partisan primary ballot and a separate part for the nonpartisan primary ballot.

Sec. 13. Minnesota Statutes 2008, section 204D.03, subdivision 1, is amended to read:

Subdivision 1. **State primary.** ~~The state primary shall be held on the first second Tuesday after the second Monday in September~~ June in each even-numbered year to select the nominees of the major political parties for partisan offices and the nominees for nonpartisan offices to be filled at the state general election, other than presidential electors.

Sec. 14. Minnesota Statutes 2008, section 205.065, subdivision 1, is amended to read:

Subdivision 1. **Establishing primary.** A municipal primary for the purpose of nominating elective officers may be held in any city on the first Tuesday after the second Monday in September of any an odd-numbered year or on the date of the state primary in an even-numbered year. The municipal primary must be held in the same year in which a municipal general election is to be held for the purpose of electing officers.

Sec. 15. Minnesota Statutes 2008, section 205.13, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In municipalities nominating candidates at a municipal primary, an affidavit of candidacy for a city office or town office voted on in November must be filed not more than 70 84 days nor less than 56 70 days before the first second Tuesday after the second Monday in September in June preceding the municipal general election. In all other municipalities, an affidavit of candidacy must be filed not more than 70 days and not less than 56 days before the municipal general election held in March in any year or in November in an odd-numbered year, and no more than 84 days and no less than 70 days before the municipal general election held in November in an even-numbered year.

Sec. 16. Minnesota Statutes 2008, section 205.16, subdivision 4, is amended to read:

Subd. 4. **Notice to auditor.** At least 53 days prior to every municipal election held in March in any year or in November in an odd-numbered year and 67 days prior to every municipal election held in November in an even-numbered year, the municipal clerk shall provide a written notice to the county auditor, including the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. Not less than 46 days before the election in an odd-numbered year and 60 days before the election in an even-numbered year, the municipal clerk must provide written notice to the county auditor of any special election canceled under section 205.10, subdivision 6.

Sec. 17. Minnesota Statutes 2008, section 205A.03, subdivision 2, is amended to read:

Subd. 2. **Date.** The school district primary must be held on the first Tuesday after the second Monday in September of an odd-numbered year or on the date of the state primary in an even-numbered year. The primary must be held in the year when the school district general election is held. The clerk shall give notice of the primary in the manner provided in section 205A.07.

Sec. 18. Minnesota Statutes 2008, section 205A.06, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 70th day and no later than the 56th day before the first Tuesday after the second Monday in September in the year when the school district general election is held in an odd-numbered year or no earlier than the 84th day and no later than the 70th day before the state primary when the school district general election is held in an even-numbered year. In all other school districts, affidavits of candidacy must be filed no earlier than the 70th day and no later than the 56th day before the school district general election in an odd-numbered year and no earlier than the 84th day and no later than the 70th day before the election in an even-numbered year.

Sec. 19. Minnesota Statutes 2008, section 205A.07, subdivision 3, is amended to read:

Subd. 3. **Notice to auditor.** At least 53 days prior to every school district election in an odd-numbered year and 67 days prior to every school district election in an even-numbered year, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. For the purposes of meeting the timelines of this section, in a bond election, a notice, including a proposed question, may be provided to the county auditor prior to receipt of a review and comment from the commissioner of education and prior to actual initiation of the election. Not less than 46 days before the election, the school district clerk must provide written notice to the county auditor of any special election canceled under section 205A.05, subdivision 3.

Sec. 20. Minnesota Statutes 2008, section 206.82, subdivision 2, is amended to read:

Subd. 2. **Plan.** The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying

with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each odd-numbered year, and at least ten weeks before the date of the state primary in each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Department of Administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

Sec. 21. Minnesota Statutes 2008, section 208.03, is amended to read:

208.03 NOMINATION OF PRESIDENTIAL ELECTORS.

Presidential electors for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. ~~On or before primary~~ At least 70 days before the general election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of eight alternate presidential electors, and the names of the party candidates for president and vice president.

Sec. 22. Minnesota Statutes 2008, section 211B.045, is amended to read:

211B.045 NONCOMMERCIAL SIGNS EXEMPTION.

In any municipality, whether or not the municipality has an ordinance that regulates the size or number of noncommercial signs, all noncommercial signs of any size may be posted in any number from ~~August 1~~ 45 days before the state primary in a state general election year until ten days following the state general election.

Sec. 23. Minnesota Statutes 2008, section 447.32, subdivision 4, is amended to read:

Subd. 4. **Candidates; ballots; certifying election.** A person who wants to be a candidate for the hospital board shall file an affidavit of candidacy for the election either as member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the first Tuesday after the first Monday in November of the year in which the general election is held and no more than 70 days and no less than 56 days before the election in an odd-numbered year. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 5:00 p.m. two days after the last day to file affidavits of candidacy.

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must be printed on tan paper and prepared as provided in the rules of the secretary of state. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers. The hospital board may also authorize the use

of voting systems subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 24. **EFFECTIVE DATE.**

This act is effective for the state primary in 2010 and thereafter."

Delete the title and insert:

"A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; requiring a primary in certain elections of soil and water conservation district supervisors; increasing the time for voting by absentee ballot from 30 to 45 days and making conforming changes; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 103C.305, subdivision 1; 204B.09, subdivision 1; 204B.14, subdivisions 2, 4; 204B.21, subdivision 1; 204B.33; 204B.35, subdivision 4; 204C.26, subdivision 3; 204D.03, subdivision 1; 205.065, subdivision 1; 205.13, subdivision 1a; 205.16, subdivision 4; 205A.03, subdivision 2; 205A.06, subdivision 1a; 205A.07, subdivision 3; 206.82, subdivision 2; 208.03; 211B.045; 447.32, subdivision 4."

And when so amended the bill do pass. 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. 1004: A bill for an act relating to labor and industry; modifying construction codes and licensing; adding provisions relating to high pressure piping profession; modifying previous appropriations restrictions; extending authority to adopt rules for obtaining boiler licenses; requiring rulemaking; amending Minnesota Statutes 2008, sections 326B.082, subdivision 12; 326B.084; 326B.43, subdivision 1; 326B.435, subdivision 2; 326B.475, subdivision 6; 326B.52; 326B.53; 326B.55; 326B.57; 326B.58; 326B.59; 326B.801; 326B.84; 326B.921, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2008, section 326B.43, subdivision 5.

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

Page 2, after line 22, insert:

"Sec. 3. Minnesota Statutes 2008, section 326B.121, is amended by adding a subdivision to read:

Subd. 1a. **Municipal ordinance; completion of exterior work.** A municipality may by ordinance adopt an official control that requires exterior work authorized by a building permit issued in accordance with the state building code, to be completed within a specified number of days following issuance of the building permit. The local regulation may not require completion of

exterior work earlier than 180 days following the issuance of the permit."

Page 5, line 7, strike "such"

Renumber the sections in sequence

Amend the title accordingly

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

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

S.F. No. 1662: A bill for an act relating to public safety; creating advisory task force to study fire protection and first responder services.

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

Page 1, delete lines 19 and 20 and insert:

"(1) two members of the senate, including one from the majority party, appointed by the majority leader of the senate, and one from the minority party, appointed by the senate minority leader;"

Page 2, line 15, delete "appoint by majority vote" and insert "elect" and after the first "the" insert "nonlegislator"

Page 2, line 17, after "recommendations" insert ", including draft legislation,"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. 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. 562: A bill for an act relating to civil liability; limiting admission of criminal history evidence in actions against private employers; modifying licensure disqualifications for pari-mutuel horse racing; amending Minnesota Statutes 2008, section 240.08, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Page 2, delete section 2

Amend the title as follows:

Page 1, line 3, delete "modifying licensure disqualifications for"

Page 1, line 4, delete "pari-mutuel horse racing;"

Amend the title numbers accordingly

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

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

S.F. No. 1600: A bill for an act relating to government operations; creating technology accessibility standards for the state; authorizing rulemaking; establishing the advisory committee for technology standards for accessibility and usability; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 16C.02, by adding a subdivision; 16C.03, subdivision 3; 16C.08, subdivision 2; 16E.01, subdivisions 1a, 3, by adding a subdivision; 16E.02, subdivision 1; 16E.03, subdivisions 2, 4; 16E.04, subdivision 1; 16E.07, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16C; 16E.

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

Page 1, line 14, delete "by the commissioner"

Page 1, line 15, delete "16C.146" and insert "16E.03"

Page 3, delete section 4

Page 6, line 16, delete "16C.146" and insert "16E.03"

Page 7, after line 25, insert:

"Sec. 10. Minnesota Statutes 2008, section 16E.03, is amended by adding a subdivision to read:

Subd. 9. **Accessibility standards.** The chief information officer shall adopt rules establishing technology access standards applicable to technology, software, and hardware procurement. The rules adopted under this section must incorporate Section 508 of the Rehabilitation Act, United States Code, title 29, section 794d, as amended by the Workforce Investment Act of 1998, Public Law 105-220, August 7, 1998, and the Web Content Accessibility and Guidelines, 2.0. The chief information officer must review subsequent revisions to Section 508 of the Rehabilitation Act and to the Web Content Accessibility and Guidelines and may adopt rules incorporating the revisions in the technology access standards."

Page 8, line 4, delete "nine" and insert "ten"

Page 8, line 5, before "chief" insert "state" and before "chief" insert "state"

Page 8, line 15, delete "and"

Page 8, line 17, delete the period and insert "; and"

Page 8, after line 17, insert:

"(10) one staff member from the legislature, appointed by the chair of the Legislative Coordinating Commission.

The appointing authorities under this subdivision must use their best efforts to ensure that the membership of the advisory committee includes at least one representative who is deaf, hard-of-hearing, or deaf-blind, and at least one representative who is blind."

Page 10, line 7, after the first "of" insert "Deaf," and after "DeafBlind" insert a comma

Page 10, line 14, delete "2011" and insert "2009"

Renumber the sections in sequence

Amend the title numbers accordingly

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. 913: A bill for an act relating to greenhouse gas emissions reduction; making findings; requiring land use planning and limiting certain types of development; prohibiting new incorporations; modifying tax increment financing standards; prohibiting the use of minimum acreage standards for new school siting; authorizing the sale of state bonds; appropriating money; amending Minnesota Statutes 2008, sections 116J.575, subdivision 1a; 123B.70, subdivision 1; 394.23; 462.352, by adding a subdivision; 462.353, subdivision 2, by adding a subdivision; 462.357, subdivision 1, by adding subdivisions; 462.358, subdivision 1a; 469.174, by adding a subdivision; 469.176, subdivision 1b, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 414; repealing Minnesota Statutes 2008, sections 394.232; 414.02; 462.3585.

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 2008, section 123B.70, subdivision 1, is amended to read:

Subdivision 1. **Commissioner approval.** In determining whether to give a school facility a positive, negative, or unfavorable review and comment, the commissioner must evaluate the proposals for facilities using the information provided under section 123B.71, subdivision 9. The commissioner may evaluate the proposals using the most recent "Guide for Planning School Construction in Minnesota" prepared by the Department of Education, but must not issue a negative or unfavorable review and comment under this section for a school facility based on the acreage of the proposed school site. The commissioner must evaluate the energy and environmental impact of any new school facility. If a school is proposed for a new site, the commissioner must examine the energy costs associated with that facility, including the change in pupil transportation costs, and the costs of establishing new infrastructure, including roads, sidewalks, and utility lines.

EFFECTIVE DATE. This section is effective for review and comments issued after July 1, 2009.

Sec. 2. [394.2311] LIMITED DENSITIES IN UNINCORPORATED AREAS.

(a) Except as provided in section 3, a county may not allow densities greater than that provided in this section. This section does not apply to unincorporated areas within a city's designated growth boundary established under section 462.357, areas that are subdivided and for which there is a recorded plat as of August 1, 2011, areas governed by shoreland regulations, or parcels classified as noncommercial seasonal residential recreational property for property tax purposes.

(b) Unincorporated areas with no more than one residential unit per 40 acres as of August 1, 2009, must not be developed with residential densities greater than one unit per 40 acres. If the

unincorporated area has a residential density greater than one residential unit per 40 acres as of August 1, 2009, the density must not be increased. A county may enact a new or enforce an existing cluster development ordinance provided that the ordinance:

(1) limits the maximum number of dwelling units to no more than 150 percent of the number otherwise permitted in the zoning district;

(2) limits lot sizes to no larger than two acres; and

(3) includes cluster development site standards designed to avoid development on, fragmentation of, or interference with prime farmland soils, tillable farmland, large tracks of land in agricultural use, woodlands, and other significant stands of vegetation.

(c) Except for unincorporated areas within a city's designated growth boundary, or areas that are subdivided and for which there is a recorded plat as of August 1, 2011, commercial and industrial uses must not be developed except for those uses, as determined by the county in which the proposed development is located, that are appropriate for rural settings such as those connected with agricultural, forestry, mining, or energy production industries or those uses that are provided for the convenience of the traveling public such as truck stops, gas stations, convenience stores, restaurants, or those that are recreational in nature.

Sec. 3. [394.2312] MODIFICATION TO LIMITED DENSITIES IN UNINCORPORATED AREAS.

A county that has adopted a comprehensive plan in compliance with section 394.23, may allow densities greater than those provided for in section 2, if the development does not occur within two miles of a municipality or within a growth area established under section 462.357. The development must conform to the following conditions:

(1) there must be a developed and implemented storm water management plan for the development; and

(2) wastewater needs for the site must be handled by a wastewater collection and treatment system that complies with section 115.55 and an administrative rule or county ordinance adopted under section 115.55.

Before allowing development under this subdivision the county must update its comprehensive plan with an evaluation of the potential public infrastructure and operational costs of serving the proposed development for a period of 25 years, and an analysis of the transportation-related carbon emissions, using commonly accepted methodology, of the development.

Sec. 4. [414.023] INCORPORATIONS PROHIBITED AFTER JUNE 1, 2009.

The chief administrative law judge must not order any municipal incorporations after June 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 462.352, is amended by adding a subdivision to read:

Subd. 1a. **City.** "City" means a statutory or home rule charter city.

Sec. 6. Minnesota Statutes 2008, section 462.357, subdivision 1, is amended to read:

Subdivision 1. **Authority for zoning.** For the purpose of promoting the public health, safety, morals, and general welfare, a municipality may by ordinance regulate on the earth's surface, in the air space above the surface, and in subsurface areas, the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in sections 103F.201 to 103F.221, access to direct sunlight for solar energy systems as defined in section 216C.06, flood control or other purposes, and may establish standards and procedures regulating such uses. To accomplish these purposes, official controls may include provision for purchase of development rights by the governing body in the form of conservation easements under chapter 84C in areas where the governing body considers preservation desirable and the transfer of development rights from those areas to areas the governing body considers more appropriate for development. No regulation may prohibit earth sheltered construction as defined in section 216C.06, subdivision 14, relocated residential buildings, or manufactured homes built in conformance with sections 327.31 to 327.35 that comply with all other zoning ordinances promulgated pursuant to this section. The regulations may divide the surface, above surface, and subsurface areas of the municipality into districts or zones of suitable numbers, shape, and area. The regulations shall be uniform for each class or kind of buildings, structures, or land and for each class or kind of use throughout such district, but the regulations in one district may differ from those in other districts. The ordinance embodying these regulations shall be known as the zoning ordinance and shall consist of text and maps. ~~A city may by ordinance extend the application of its zoning regulations to unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the zoning of land on its side of a line equidistant between the two noncontiguous municipalities unless a town or county in the affected area has adopted zoning regulations. Any city may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county or town board adopts a comprehensive zoning regulation which includes the area.~~

Sec. 7. Minnesota Statutes 2008, section 462.357, is amended by adding a subdivision to read:

Subd. 1i. **Limited densities in unincorporated areas.** (a) This subdivision does not apply to unincorporated areas within a city's designated growth boundary, areas that are subdivided and for which there is a recorded plat as of August 1, 2011, areas governed by shoreland regulations, or parcels classified as noncommercial seasonal residential recreational property for property tax purposes.

(b) Unincorporated areas with no more than one residential unit per 40 acres as of August 1, 2011, must not be developed with residential densities greater than one unit per 40 acres. If the unincorporated area has a residential density greater than one residential unit per 40 acres as of August 1, 2011, the density must not be increased. A county may enact a new or enforce an existing cluster development ordinance provided that the ordinance:

(1) limits the maximum number of dwelling units to no more than 150 percent of the number otherwise permitted in the zoning district;

(2) limits lot sizes to no larger than two acres; and

(3) includes cluster development site standards designed to avoid development on, fragmentation of, or interference with prime farmland soils, tillable farmland, large tracks of land in agricultural use, woodlands, and other significant stands of vegetation.

(c) Except for unincorporated areas within a city's designated growth boundary, or areas that are subdivided and for which there is a recorded plat as of August 1, 2011, commercial and industrial uses must not be developed except for those uses, as determined by the county in which the proposed development is located, that are appropriate for rural settings such as those connected with agricultural, forestry, mining, or energy production industries or those uses that are provided for the convenience of the traveling public such as truck stops, gas stations, convenience stores, restaurants, or those that are recreational in nature.

Sec. 8. Minnesota Statutes 2008, section 462.357, is amended by adding a subdivision to read:

Subd. 1j. **Status of unincorporated area before establishment of growth area.** Before, or in the absence of, the establishment of a growth area and adoption of land use controls under subdivision 10, the area outside of a city for two miles in any direction is deemed to be the city's preliminary growth area. Except for areas that are subdivided and for which there is a recorded plat as of February 1, 2009, areas governed by shoreland regulations, parcels classified as noncommercial seasonal residential recreational property for property tax purposes, or development that is adjacent to a city and that would be served by city sewer and water at the time of development, the residential density of the preliminary growth area must not exceed the limits of this subdivision. Areas within the preliminary growth area with no more than one residential unit per 40 acres as of August 1, 2009, must not be developed with residential densities greater than one unit per 40 acres. If the area within the preliminary growth area has a residential density greater than one unit per 40 acres as of August 1, 2009, the density must not be increased.

Sec. 9. Minnesota Statutes 2008, section 462.357, is amended by adding a subdivision to read:

Subd. 10. **City growth areas.** (a) Upon request of a city to a township, a joint powers board consisting of three city and three township residents shall be appointed for the purpose of establishing and administering a city growth area. The members of the joint powers board must be residents of the jurisdictions they represent and shall be appointed by and serve at the pleasure of the respective governing bodies. The joint powers board may create a growth area for the city after determining that: (1) population growth demands more housing than can be developed in the space available within the city, or growth in commercial or industrial use requires more space than available within the city, (2) planning of city services is necessary to facilitate the growth, and (3) the city has the capacity and willingness to extend city services such as sewer and water throughout the growth area. An area must not be included in the growth area if the city is not willing or is unable to extend sewer or water services. An area is appropriate to be included in a city's growth area to the extent that future development within the growth area will maximize existing transportation, water, sewer, and other municipal infrastructure, while avoiding to the extent practicable the development of class A agricultural land.

(b) Before designating the growth area, the joint powers board must hold a hearing to present to the public its proposed findings for a designated growth area. Notice of the hearing must be published in the city and in the proposed designated growth area. Members of the public must be given a reasonable opportunity to present their comments. The joint powers board also must provide the proposed findings and designated growth area to the county planning authority of each county

affected. A county has 90 days to approve or reject the growth area plan proposed by the joint powers board. If the county rejects the growth area, the county must submit an alternative growth area plan to the joint powers board within 90 days of the receipt of the original plan from the joint powers board. If the county takes no action within the 90-day period the growth area is deemed approved as submitted to the county.

(c) If more than one city claims the same unincorporated area for its growth area, an administrative law judge will determine in accordance with chapter 414 and this section which city is best positioned to serve the area weighing factors that include existing development and population growth patterns; existing transportation infrastructure; impact on vehicle miles traveled from area to regional amenities, schools, jobs, and governmental services; and the overall costs of extending services to the area.

(d) If the city's growth area includes land zoned by the county or town for agricultural use at the time the growth area is adopted, that land continues to be subject only to the county's or town's official controls for agricultural use. When the county or town receives a request to change the zoning classification of that land to a nonagricultural use, and that request is approved by the appropriate land use authority, it becomes subject to the authority of the joint powers board in paragraph (e).

(e) Once established, the growth area shall be governed by the same joint powers board, which established the growth area. Except as provided in paragraph (d), the joint powers board has the exclusive authority to plan, adopt, and enforce official controls in the growth area. Planning and development in the growth area must be at densities that are consistent with the rest of the city.

(f) Growth areas must be reviewed by the city council at least every ten years.

(g) As development occurs in the growth area and sewer and water service is extended to the development, that part of the growth area may be annexed to the city by ordinance under chapter 414. Annexation by ordinance under this paragraph is not subject to the conditions for annexation by ordinance in section 414.033, subdivision 2.

(h) A joint powers board that has established a growth area must file its growth area plan and maps with the Office of Administrative Hearings municipal boundary adjustments.

Sec. 10. Minnesota Statutes 2008, section 462.358, subdivision 1a, is amended to read:

Subd. 1a. **Authority.** To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.

~~A municipality may by resolution extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits in any direction but not in a town which has adopted subdivision regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the~~

~~subdivision of land equal distance from its boundaries within this area.~~

Sec. 11. Minnesota Statutes 2008, section 469.174, is amended by adding a subdivision to read:

Subd. 10c. **Compact development district.** "Compact development district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that the following conditions are satisfied:

(1) parcels consisting of 70 percent of the area of the district are occupied by buildings or other structures that are classified as class 3a property under section 273.13, subdivision 24; and

(2) the planned redevelopment or development of the district, when completed, will increase the total square footage of buildings, classified as class 3a under section 273.13, subdivision 24, occupying the district by three times or more relative to the square footage of similar buildings occupying the district when the resolution was approved.

EFFECTIVE DATE. This section is effective for districts for which the request for certification is made after June 30, 2009.

Sec. 12. Minnesota Statutes 2008, section 469.176, subdivision 1b, is amended to read:

Subd. 1b. **Duration limits; terms.** (a) No tax increment shall in any event be paid to the authority

(1) after 15 years after receipt by the authority of the first increment for a renewal and renovation district,

(2) after 20 years after receipt by the authority of the first increment for a soils condition district,

(3) after eight years after receipt by the authority of the first increment for an economic development district,

(4) for a housing district, a compact development district, or a redevelopment district, after 25 years from the date of receipt by the authority of the first increment.

(b) For purposes of determining a duration limit under this subdivision or subdivision 1e that is based on the receipt of an increment, any increments from taxes payable in the year in which the district terminates shall be paid to the authority. This paragraph does not affect a duration limit calculated from the date of approval of the tax increment financing plan or based on the recovery of costs or to a duration limit under subdivision 1c. This paragraph does not supersede the restrictions on payment of delinquent taxes in subdivision 1f.

(c) An action by the authority to waive or decline to accept an increment has no effect for purposes of computing a duration limit based on the receipt of increment under this subdivision or any other provision of law. The authority is deemed to have received an increment for any year in which it waived or declined to accept an increment, regardless of whether the increment was paid to the authority.

(d) Receipt by a hazardous substance subdistrict of an increment as a result of a reduction in original net tax capacity under section 469.174, subdivision 7, paragraph (b), does not constitute receipt of increment by the overlying district for the purpose of calculating the duration limit under this section.

EFFECTIVE DATE. This section is effective for districts for which the request for certification is made after June 30, 2009.

Sec. 13. Minnesota Statutes 2008, section 469.176, is amended by adding a subdivision to read:

Subd. 1i. **Compact development districts.** Tax increments derived from a compact development district may only be used to pay:

- (1) administrative expenses up to the amount permitted under subdivision 3;
- (2) the cost of acquiring land located in the district or abutting the boundary of the district;
- (3) demolition and removal of buildings or other improvements and other site preparation costs for lands located in the district or abutting the boundary of the district; and
- (4) installation of public infrastructure or public improvements serving the district, but excluding the costs of streets, roads, highways, parking, or other public improvements primarily designed to serve private passenger motor vehicles.

EFFECTIVE DATE. This section is effective for districts for which the request for certification is made after June 30, 2009.

Sec. 14. **REPEALER.**

Minnesota Statutes 2008, section 414.02, is repealed."

Amend the title accordingly

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 referred

S.F. No. 1464: A bill for an act relating to state government; authorizing use of state space for employee fitness and wellness activities; authorizing rulemaking; amending Minnesota Statutes 2008, section 16B.24, by adding a subdivision.

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

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

S.F. No. 446: A bill for an act relating to elections; enacting the Agreement Among the States to Elect the President by National Popular Vote; proposing coding for new law in Minnesota Statutes, chapter 208.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 1349: A bill for an act relating to traffic regulations; prohibiting intersection gridlock; imposing petty misdemeanor penalty; amending Minnesota Statutes 2008, section 169.15.

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 2008, section 169.15, is amended to read:

169.15 IMPEDING TRAFFIC; INTERSECTION GRIDLOCK.

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

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

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

Amend the title accordingly

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

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

S.F. No. 1705: A bill for an act relating to railroads; modifying membership on Commuter Rail Corridor Coordinating Committee; amending Minnesota Statutes 2008, section 174.86, subdivision 5.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight. Report adopted.

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

S.F. No. 1308: A bill for an act relating to transportation; regulating motor carriers of railroad employees; amending Minnesota Statutes 2008, sections 171.01, subdivision 22; 221.012, subdivisions 26, 38, by adding a subdivision; 221.0252, by adding a subdivision; 221.0314, by adding a subdivision; 221.141, subdivision 1.

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

Page 2, line 1, delete "and" and insert "or"

Page 2, line 7, after "employees" insert "of a class I or II common carrier, as defined in Code of Federal Regulations, title 49, part 1201, general instruction 1-1,"

Page 3, line 24, after the period, insert "The motor carrier of railroad employees shall also maintain uninsured and underinsured coverage. If a party contracts with the motor carrier on behalf of the railroad to transport the railroad employees, then the insurance requirement may be satisfied by either that party or the motor carrier, so long as the motor carrier is a named insured or additional insured under any policy."

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

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

H.F. No. 85: A bill for an act relating to traffic regulations; authorizing mounting global positioning systems on windshields; amending Minnesota Statutes 2008, section 169.71, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 973: A bill for an act relating to motor vehicles; removing expiration date relating to corporate deputy registrars; amending Minnesota Statutes 2008, section 168.33, subdivision 2.

Reports the same back with the recommendation that the bill do pass. Report adopted.

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

S.F. No. 1484: A bill for an act relating to transportation; requiring inclusion of bicycle and pedestrian accommodations as part of trunk highway bridge improvement program; amending Minnesota Statutes 2008, section 165.14, subdivisions 3, 4, 5.

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

Page 2, line 26, delete "undertaken" and insert "funded" and after "section" insert "in fiscal year 2010 or later"

Page 2, line 27, after "if" insert "both sides of" and delete "is" and insert "are" and delete "an incorporated" and insert "a"

Page 2, line 34, delete "maximize" and insert "provide for"

Page 3, line 16, after "including" insert "safety targets for"

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

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

S.F. No. 1183: A bill for an act relating to transportation; highways; removing or altering routes on the trunk highway system; amending Minnesota Statutes 2008, section 161.115, subdivision 118.

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

Page 1, delete section 1

Re-number the sections in sequence

Amend the title accordingly

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

SECOND READING OF SENATE BILLS

S.F. Nos. 971, 556, 1539, 838, 271, 477, 1288, 1435, 441, 1220, 260, 1004, 562, 446, 1308, 973 and 1183 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 85 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Prettner Solon moved that S.F. No. 847 be withdrawn from the Committee on Finance, given a second reading, and placed on General Orders. The motion prevailed.

S.F. No. 847 was read the second time.

Senator Kubly moved that S.F. No. 1410 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on State and Local Government Operations and Oversight. The motion prevailed.

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.

Senator Kubly introduced—

S.F. No. 1891: A bill for an act relating to energy; increasing the capacity of wind energy conversion systems over which counties have authority to issue site permits; amending Minnesota Statutes 2008, sections 216F.01, subdivisions 2, 3; 216F.02; 216F.08.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senator Chaudhary introduced—

S.F. No. 1892: A bill for an act relating to environment; modifying regulation of storm water

discharges; appropriating money; amending Minnesota Statutes 2008, section 115.03, subdivision 5c.

Referred to the Committee on Environment and Natural Resources.

Senator Koering introduced—

S.F. No. 1893: A bill for an act relating to education; establishing a literacy collaborative program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 122A.

Referred to the Committee on Finance.

Senators Clark, Senjem, Higgins and Ingebrigtsen introduced—

S.F. No. 1894: A bill for an act relating to public safety; authorizing local units of government to impose administrative fines for certain offenses; amending Minnesota Statutes 2008, sections 6.74; 169.022; 169.985; 169.99, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 471.

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

Senators Scheid and Foley introduced—

S.F. No. 1895: A bill for an act relating to taxation; tax increment financing; allowing use of increment to offset state aid reductions; amending Minnesota Statutes 2008, section 469.176, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Chaudhary, Saxhaug and Ingebrigtsen introduced—

S.F. No. 1896: A bill for an act relating to state government; appropriating money for environment and natural resources.

Referred to the Committee on Environment and Natural Resources.

Senator Torres Ray introduced—

S.F. No. 1897: A bill for an act relating to public health; prohibiting the installation of utility poles treated with or containing pentachlorophenol in Minneapolis; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senator Torres Ray introduced—

S.F. No. 1898: A bill for an act relating to cities; authorizing counties and cities to establish a main street and neighborhood revitalization program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 469.

Referred to the Committee on Business, Industry and Jobs.

Senator Limmer introduced–

S.F. No. 1899: A bill for an act relating to local government; requiring town board consent before Three Rivers Park District acquires property in a town; amending Minnesota Statutes 2008, section 383B.72.

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

Senator Olson, G. introduced–

S.F. No. 1900: A bill for an act relating to capital improvements; appropriating money for a geothermal water-to-water heat pump system in Waconia High School; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

Senator Olson, G. introduced–

S.F. No. 1901: A bill for an act relating to waters; modifying requirement for conservation rate structure; amending Minnesota Statutes 2008, section 103G.291, subdivisions 3, 4.

Referred to the Committee on Environment and Natural Resources.

Senator Olseen introduced–

S.F. No. 1902: A bill for an act relating to commerce; exempting a disabled veterans organization from the prohibition on use of an automatic dialing device in certain situations; amending Minnesota Statutes 2008, section 325E.27.

Referred to the Committee on Commerce and Consumer Protection.

Senators Sieben and Murphy introduced–

S.F. No. 1903: A bill for an act relating to transportation; prescribing duties and powers of commissioner of transportation with respect to passenger rail between Chicago and St. Paul; authorizing use of design-build method of contracting in high-speed rail project; proposing coding for new law in Minnesota Statutes, chapter 174.

Referred to the Committee on Transportation.

Senator Scheid introduced–

S.F. No. 1904: A bill for an act relating to insurance; regulating continuation coverage; conforming Minnesota law to the requirements necessary for assistance eligible individuals who are not enrolled in continuation coverage to receive a federal premium subsidy under the American Recovery and Reinvestment Act of 2009; amending Minnesota Statutes 2008, section 62A.17, by adding a subdivision.

Referred to the Committee on Commerce and Consumer Protection.

Senator Scheid introduced—

S.F. No. 1905: A bill for an act relating to insurance; expanding the small employer health insurance market; creating a process for developing a standard application form for small employer health coverage; amending Minnesota Statutes 2008, section 62L.02, subdivision 26.

Referred to the Committee on Commerce and Consumer Protection.

Senator Marty introduced—

S.F. No. 1906: A bill for an act relating to education finance; removing an obsolete reference; amending Minnesota Statutes 2008, section 126C.10, subdivision 1.

Referred to the Committee on Finance.

Senator Marty introduced—

S.F. No. 1907: A bill for an act relating to education finance; updating a reference; amending Minnesota Statutes 2008, section 126C.05, subdivision 2.

Referred to the Committee on Finance.

Senator Ortman introduced—

S.F. No. 1908: A bill for an act relating to education finance; defining similar departments for purposes of the pupil transportation equal treatment statute; amending Minnesota Statutes 2008, section 123B.85, by adding a subdivision.

Referred to the Committee on Finance.

Senators Dibble, Moua, Scheid, Rest and Frederickson introduced—

S.F. No. 1909: A bill for an act relating to taxation; tobacco; moist snuff; amending Minnesota Statutes 2008, sections 297F.01, subdivision 19, by adding a subdivision; 297F.05, subdivisions 3, 4.

Referred to the Committee on Taxes.

Senator Dahle introduced—

S.F. No. 1910: A bill for an act relating to commerce; providing for the licensing and regulation of certain persons; establishing prelicense and continuing education requirements; amending Minnesota Statutes 2008, sections 45.22; 45.23; 60K.31, by adding a subdivision; 60K.36, subdivision 4, by adding a subdivision; 60K.37, by adding a subdivision; 60K.55, subdivision 2; 60K.56; 72B.02, subdivisions 2, 5, 11, by adding subdivisions; 72B.03; 72B.05; 72B.06; 72B.08, subdivisions 1, 2, 4; 72B.135, subdivisions 1, 2, 3; 82.32; 82B.05, subdivision 1; 82B.08, by adding subdivisions; 82B.09, by adding a subdivision; 82B.10; 82B.13, subdivisions 4, 5, 6; 82B.19,

subdivisions 1, 2; 82B.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 45; 60K; 72B; 82; 82B; repealing Minnesota Statutes 2008, sections 72B.02, subdivision 12; 72B.04; 82B.02; Minnesota Rules, parts 2808.0100; 2808.1000; 2808.1100; 2808.1200; 2808.1300; 2808.1400; 2808.1500; 2808.1600; 2808.1700; 2808.2000; 2808.2100; 2808.6000; 2808.7000; 2808.7100; 2809.0010; 2809.0020; 2809.0030; 2809.0040; 2809.0050; 2809.0060; 2809.0070; 2809.0080; 2809.0090; 2809.0100; 2809.0110; 2809.0120; 2809.0130; 2809.0140; 2809.0150; 2809.0160; 2809.0170; 2809.0180; 2809.0190; 2809.0200; 2809.0210; 2809.0220.

Referred to the Committee on Commerce and Consumer Protection.

Senators Prettner Solon, Marty and Lourey introduced—

S.F. No. 1911: A bill for an act relating to occupations and professions; providing licensure for dental professionals; amending Minnesota Statutes 2008, sections 150A.01, subdivision 8; 150A.02, subdivision 1; 150A.05, subdivisions 1, 2; 150A.06, subdivisions 2a, 2b, 2c, 2d, 4a, 5, 7, 8; 150A.08, subdivisions 1, 3, 3a, 5, 6, 8; 150A.081; 150A.09, subdivisions 1, 3; 150A.091, subdivisions 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, by adding subdivisions; 150A.10, subdivisions 1a, 2, 4; 150A.12; 150A.13; repealing Minnesota Statutes 2008, section 150A.09, subdivision 6.

Referred to the Committee on Health, Housing and Family Security.

Senator Dahle introduced—

S.F. No. 1912: A bill for an act relating to taxation; property; reducing the state general levy for historic commercial buildings; amending Minnesota Statutes 2008, section 273.13, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Frederickson, Anderson, Rummel, Dille and Saxhaug introduced—

S.F. No. 1913: A bill for an act relating to state government; appropriating money from the clean water fund for clean water legacy activities.

Referred to the Committee on Finance.

Senator Vandever introduced—

S.F. No. 1914: A bill for an act relating to highways; directing commissioner of transportation to construct paved apron at certain intersections; proposing coding for new law in Minnesota Statutes, chapter 161.

Referred to the Committee on Transportation.

Senators Rummel, Anderson and Torres Ray introduced—

S.F. No. 1915: A bill for an act relating to environment finance; requiring waters to be monitored for endocrine disruptors and other compounds; appropriating money.

Referred to the Committee on Finance.

Senator Saltzman introduced—

S.F. No. 1916: A bill for an act relating to education; appropriating money to provide a grant to the Center for the Arts in South Washington County.

Referred to the Committee on Finance.

Senator Saltzman introduced—

S.F. No. 1917: A bill for an act relating to education; appropriating money to provide a grant to the Center for the Arts in South Washington County.

Referred to the Committee on Finance.

Senators Sieben, Rummel, Anderson and Saltzman introduced—

S.F. No. 1918: A bill for an act relating to natural resources; appropriating money for comprehensive water monitoring and phosphorus reduction in Lake St. Croix.

Referred to the Committee on Finance.

Senators Anderson, Dibble and Jungbauer introduced—

S.F. No. 1919: A bill for an act relating to energy; creating Minnesota Green Enterprise Authority; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Business, Industry and Jobs.

Senator Clark introduced—

S.F. No. 1920: A bill for an act relating to local government; appropriating money for grants to encourage local government units to participate in inter-local service sharing agreements in the delivery of public safety services.

Referred to the Committee on Finance.

Senator Doll introduced—

S.F. No. 1921: A bill for an act relating to public safety; requiring the Board of Pharmacy to report all controlled substance schedule changes the board recommends to the legislature; amending Minnesota Statutes 2008, section 152.02, subdivision 12.

Referred to the Committee on Health, Housing and Family Security.

Senators Anderson, Prettner Solon, Cohen and Dibble introduced—

S.F. No. 1922: A bill for an act relating to energy; establishing a working group; requiring a

report; appropriating money.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senators Lynch and Marty introduced—

S.F. No. 1923: A bill for an act relating to human services; establishing the State-County Results, Accountability, and Service Delivery Redesign; requiring reports; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 402A.

Referred to the Committee on Health, Housing and Family Security.

Senator Berglin introduced—

S.F. No. 1924: A bill for an act relating to human services; requiring the commissioner of human services to collect and report information on managed care plan and county-based purchasing plan provider reimbursement rates; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

Referred to the Committee on Health, Housing and Family Security.

Senator Berglin introduced—

S.F. No. 1925: A bill for an act relating to human services; requiring the commissioner of human services to implement a complementary and alternative medicine demonstration project to provide integrated services to state health care program enrollees with neck and back problems; requiring a report; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

Referred to the Committee on Finance.

Senators Clark and Bonoff introduced—

S.F. No. 1926: A bill for an act relating to early childhood education; school readiness program; school readiness service agreements; prekindergarten exploratory projects; requiring reports; appropriating money; amending Minnesota Statutes 2008, sections 119B.13, subdivision 1; 119B.231, subdivisions 2, 3, 4; Laws 2007, chapter 147, article 2, section 62, subdivision 5.

Referred to the Committee on Finance.

Senators Anderson and Saxhaug introduced—

S.F. No. 1927: A bill for an act relating to state government; appropriating money for environment and natural resources.

Referred to the Committee on Environment and Natural Resources.

Senators Anderson and Saxhaug introduced—

S.F. No. 1928: A bill for an act relating to state government; modifying administration of the Lessard Outdoor Heritage Council; amending Minnesota Statutes 2008, section 97A.056,

subdivisions 2, 7.

Referred to the Committee on Environment and Natural Resources.

Senators Pariseau and Gimse introduced—

S.F. No. 1929: A bill for an act relating to public safety; authorizing certain retired peace officers to carry a pistol without a permit; requiring law enforcement agencies to issue identification to former officers who qualify to carry without a permit; amending Minnesota Statutes 2008, section 624.714, subdivision 13.

Referred to the Committee on Judiciary.

Senator Senjem introduced—

S.F. No. 1930: A bill for an act relating to human services; extending medical assistance coverage to donor human breast milk; amending Minnesota Statutes 2008, section 256B.0625, by adding a subdivision.

Referred to the Committee on Health, Housing and Family Security.

Senator Senjem introduced—

S.F. No. 1931: A bill for an act relating to insurance; amending the fair claims processing act as it applies to certain automobile insurance claims; providing certain rights for third-party claimants in insurance settlement of claims; amending Minnesota Statutes 2008, section 72A.201, subdivision 6.

Referred to the Committee on Commerce and Consumer Protection.

Senator Senjem introduced—

S.F. No. 1932: A bill for an act relating to economic development; requiring accountability measures and reports as a condition for receiving state funds; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Business, Industry and Jobs.

Senator Robling introduced—

S.F. No. 1933: A bill for an act relating to higher education; defining terms; providing an appeals process; requiring a report; providing awards for online courses; appropriating money; amending Minnesota Statutes 2008, sections 135A.25, subdivision 4; 136A.08, subdivision 1, by adding a subdivision; 136A.127, by adding a subdivision.

Referred to the Committee on Finance.

Senators Rosen and Sheran introduced—

S.F. No. 1934: A bill for an act relating to human services; authorizing designation of critical

access nursing facilities; providing a rate increase to designated facilities; appropriating money; amending Minnesota Statutes 2008, section 256B.441, by adding a subdivision.

Referred to the Committee on Health, Housing and Family Security.

Senators Vandever and Rummel introduced—

S.F. No. 1935: A bill for an act relating to education; adjusting the burden of proof in special education due process hearings; amending Minnesota Statutes 2008, section 125A.091, subdivision 16.

Referred to the Committee on Education.

Senators Saxhaug, Tomassoni and Anderson introduced—

S.F. No. 1936: A bill for an act relating to employment; appropriating money for a progressive development and employment opportunities grant.

Referred to the Committee on Finance.

Senators Gimse and Gerlach introduced—

S.F. No. 1937: A bill for an act relating to elections; providing for the postponement of a local election or extension of voting hours in the event of inclement weather; proposing coding for new law in Minnesota Statutes, chapter 204C.

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

RECESS

Senator Clark moved that the Senate do now recess until 11:00 a.m. The motion prevailed.

The hour of 11:00 a.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

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 Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1661: A bill for an act relating to construction; requiring registration of unlicensed contractors and subcontractors; imposing a fee; imposing penalties; proposing coding for new law in Minnesota Statutes, chapter 326B.

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

Page 1, line 7, delete "An unlicensed" and insert "A"

Page 1, line 9, after "services" insert "and who does not possess a current required state license for the work being performed"

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1431: A bill for an act relating to employment; regulating the deduction from wages of unreimbursed expenses; amending Minnesota Statutes 2008, section 177.24, subdivisions 4, 5.

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

Page 1, line 10, delete "an employer" and insert "a motor vehicle dealer licensed under section 168.27"

Page 1, delete line 11 and insert "may not exceed the lesser of 50 percent of the dealer's reasonable expense or \$25 per month, including nonhome"

Page 2, line 3, delete ", clauses (2), (3), or (4)" and insert ", except for a motor vehicle dealer's rental and maintenance deduction for uniforms or clothing"

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1772: A bill for an act relating to economic development and housing; modifying the targeted neighborhood revitalization program; creating a revolving fund; appropriating money; amending Minnesota Statutes 2008, sections 469.201, subdivisions 2, 4, 6, 7, 10, 11, 12; 469.202; 469.203, subdivisions 1, 2, 4; 469.204, subdivision 1, by adding a subdivision; 469.205; 469.207, subdivision 2; repealing Minnesota Statutes 2008, sections 469.203, subdivision 3; 469.204, subdivisions 2, 3.

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

Page 6, line 21, after "days" insert "after submission of the preliminary program"

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1454: A bill for an act relating to unemployment insurance; providing for a shared work plan; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2008, section 268.135.

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

Page 1, line 14, after "plan" insert "agreement"

Page 3, after line 17, insert:

"(d) The commissioner may immediately cancel an agreement if the commissioner determines the agreement was based upon false information, or the employer is in breach of the agreement. The commissioner must immediately send written notice of cancellation to the employer. An employer that receives notice of cancellation by the commissioner must immediately provide written notice to each participating employer in the group of the cancellation."

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1635: A bill for an act relating to occupations and professions; regulating the practice of plumbing; regulating work on medical gas systems; proposing coding for new law in Minnesota Statutes, chapter 326B.

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was re-referred

S.F. No. 347: A bill for an act relating to employment; providing health coverage to certain unemployed workers; assessing a workforce support fee; appropriating money.

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

Page 1, line 10, delete "their" and insert "the applicant's"

Page 2, line 12, after "available" insert ", and that if coverage is elected a deduction of ten percent of the applicant's weekly benefit amount will be made to pay a portion of the cost of coverage"

Page 3, line 13, delete everything after "section"

Page 3, line 14, delete everything before "is"

Page 3, line 16, delete ".3" and insert ".2"

Page 3, line 24, delete ".2" and insert ".1"

Page 3, after line 26, insert:

"Subd. 3. **Quarterly review and possible reduction of workforce support fee.** The commissioner of human services shall on a quarterly basis review the sufficiency of funds in the workforce health coverage account to pay the obligations of the account. If the commissioner

determines there is an excess of funds, the commissioner shall notify the commissioner of employment and economic development who must reduce that portion of the workforce support fee that is for deposit in the account to a level designed to eliminate the excess based on an evaluation of current and future liabilities of the account. If the commissioner of health determines there is an insufficiency of funds in the account, the commissioner shall notify the commissioner of employment and economic development who must increase the portion of the fee for deposit in the account but not above the level specified in subdivisions 1 and 2."

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1143: A bill for an act relating to unemployment insurance; providing limited eligibility for benefits during a voluntary leave; proposing coding for new law in Minnesota Statutes, chapter 268.

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

Page 1, after line 22, insert:

"(c) This section expires the first Sunday after August 1, 2012, and no benefits may be paid under this section for a week commencing on or after that date.

EFFECTIVE DATE. This section is effective the day following final enactment and applies retroactively to elections under this section made on or after March 27, 2009."

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1431, 1454 and 1143 were read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Sieben moved that the name of Senator Pappas be added as a co-author to S.F. No. 768. The motion prevailed.

Senator Anderson moved that the name of Senator Frederickson be added as a co-author to S.F. No. 1557. The motion prevailed.

Senator Torres Ray moved that the name of Senator Sheran be added as a co-author to S.F. No. 1799. The motion prevailed.

Senator Olson, G. moved that the name of Senator Ortman be added as a co-author to S.F. No. 1900. The motion prevailed.

Senator Anderson moved that the name of Senator Ingebrigtsen be added as a co-author to S.F. No. 1927. The motion prevailed.

Senator Anderson moved that her name be stricken as chief author, shown as a co-author, and the name of Senator Saxhaug be shown as chief author to S.F. No. 1927. The motion prevailed.

Senator Anderson moved that the name of Senator Ingebrigtsen be added as a co-author to S.F. No. 1928. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

CALENDAR

S.F. No. 275: A bill for an act relating to natural resources; renaming the Minnesota River Basin Joint Powers Board; clarifying the duties and membership of board; amending Minnesota Statutes 2008, section 103F.378.

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

So the bill passed and its title was agreed to.

S.F. No. 30: A bill for an act relating to public safety; specifying a retention time period for methamphetamine precursor drug logs maintained by retailers and providing that the logs are open to law enforcement inspection; amending Minnesota Statutes 2008, section 152.02, subdivision 6.

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 61 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Clark	Erickson Ropes	Higgins	Kubly
Bakk	Cohen	Fischbach	Ingebrigtsen	Langseth
Berglin	Dahle	Fobbe	Johnson	Lourey
Betzold	Day	Foley	Jungbauer	Lynch
Bonoff	Dibble	Frederickson	Kelash	Metzen
Carlson	Dille	Gerlach	Koch	Michel
Chaudhary	Doll	Gimse	Koering	Moua

Olseen	Pogemiller	Saltzman	Skoe	Vickerman
Olson, G.	Prettner Solon	Saxhaug	Skogen	Wiger
Olson, M.	Rest	Scheid	Sparks	
Ortman	Robling	Senjem	Stumpf	
Pappas	Rosen	Sheran	Tomassoni	
Pariseau	Rummel	Sieben	Torres Ray	

Those who voted in the negative were:

Limmer Vandever

So the bill passed and its title was agreed to.

S.F. No. 832: A bill for an act relating to taxation; income; extending the exception to minimum contacts required for jurisdiction to ownership of property on the premises of a printer under specific circumstances; amending Minnesota Statutes 2008, section 290.015, subdivision 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 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 34: A bill for an act relating to natural resources; extending the Casey Jones Trail; establishing a new state trail; amending Minnesota Statutes 2008, section 85.015, subdivision 2, by adding a subdivision.

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	Dahle	Frederickson	Koering	Moua
Bakk	Day	Gerlach	Kubly	Olseen
Berglin	Dibble	Gimse	Langseth	Olson, M.
Betzold	Dille	Higgins	Limmer	Ortman
Bonoff	Doll	Ingebrigtsen	Lourey	Pappas
Carlson	Erickson Ropes	Johnson	Lynch	Pariseau
Chaudhary	Fischbach	Jungbauer	Marty	Pogemiller
Clark	Fobbe	Kelash	Metzen	Prettner Solon
Cohen	Foley	Koch	Michel	Rest

Robling	Scheid	Skoe	Tomassoni	Wiger
Rosen	Senjem	Skogen	Torres Ray	
Rummel	Sheran	Sparks	Vandever	
Saltzman	Sieben	Stumpf	Vickerman	

So the bill passed and its title was agreed to.

S.F. No. 1028: A bill for an act relating to transportation; requiring closure of Trunk Highway 19 in New Prague for the Dozinky Festival.

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 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 208: A bill for an act relating to transportation; authorizing use of freeway shoulders by transit buses and Metro Mobility buses; amending Minnesota Statutes 2008, section 169.306.

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

Those who voted in the negative were:

Limmer

So the bill passed and its title was agreed to.

S.F. No. 99: A bill for an act relating to traffic regulations; requiring restraint of child under age eight and shorter than four feet nine inches while passenger in motor vehicle and modifying seat belt requirements accordingly; amending Minnesota Statutes 2008, sections 169.685, subdivision 5; 169.686, 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 41 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Kelash	Olson, M.	Sheran
Berglin	Dille	Kubly	Pappas	Sieben
Betzold	Doll	Langseth	Pogemiller	Skogen
Bonoff	Erickson Ropes	Lourey	Prettner Solon	Torres Ray
Carlson	Foley	Lynch	Rest	Wiger
Chaudhary	Frederickson	Marty	Rummel	
Clark	Gimse	Michel	Saltzman	
Cohen	Higgins	Moua	Saxhaug	
Dahle	Jungbauer	Olseen	Scheid	

Those who voted in the negative were:

Bakk	Ingebrigtsen	Metzen	Rosen	Tomassoni
Day	Johnson	Olson, G.	Senjem	Vanderveer
Fischbach	Koch	Ortman	Skoe	Vickerman
Fobbe	Koering	Pariseau	Sparks	
Gerlach	Limmer	Robling	Stumpf	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

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. 33, 1091, 764 and 284, which the committee recommends to pass.

S.F. No. 708, which the committee recommends to pass with the following amendment offered by Senator Fobbe:

Page 4, after line 12, insert:

"Sec. 2. EFFECTIVE DATE.

This act is effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

S.F. No. 164, which the committee recommends to pass with the following amendments offered by Senator Limmer:

Senator Limmer moved to amend S.F. No. 164 as follows:

Page 2, line 8, before "mail" insert "certified"

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend S.F. No. 164 as follows:

Page 3, line 34, before "If" insert "(a) Except as provided in paragraph (b),"

Page 4, after line 10, insert:

"(b) If the person was adopted before August 1, 1977, and the only contact with a birth parent under this section was by mail, the commissioner of health must not disclose information on that parent in the adopted person's original birth record unless that parent has filed an unrevoked consent to disclosure with the commissioner."

Senator Limmer moved to amend the second Limmer amendment to S.F. No. 164 as follows:

Page 1, line 5, before "mail" insert "certified"

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the adoption of the second Limmer amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Sheran moved that S.F. No. 558, No. 6 on General Orders, be stricken and re-referred to the Committee on Judiciary. The motion prevailed.

Senator Clark moved that S.F. No. 1230 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Finance. The motion prevailed.

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.

CALL OF THE SENATE

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

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, First Reading of House Bills, Reports of Committees and Second Reading of Senate Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned:

S.F. No. 236: A bill for an act relating to state government; designating March 25 as Medal of Honor Day; proposing coding for new law in Minnesota Statutes, chapter 10.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned March 26, 2009

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 865 and 1797.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 26, 2009

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H. F. No. 865: A bill for an act relating to natural resources; establishing a state trail; amending Minnesota Statutes 2008, section 85.015, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 983, now on the Calendar.

H.F. No. 1797: A bill for an act relating to transportation; providing for receipt and appropriation of federal economic recovery funds; amending Minnesota Statutes 2008, section 161.36, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1511.

REPORTS OF COMMITTEES

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

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 1544: A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; amending Minnesota Statutes 2008, sections 6.80, by adding a subdivision; 168.33, subdivision 7; 211B.37; 306.243, by adding a subdivision; 326B.145; 344.18; 365.28; 373.052, subdivisions 1, 2, by adding a subdivision; 375.12, subdivision 2; 382.265; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 429.041, subdivisions 1, 2; 469.015; 471.999; 473.862; 508.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4; 471.661.

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

Page 3, line 3, before the period, insert "in accordance with emergency rules established by the commissioner of public safety"

Page 3, line 25, after "election" insert "other than an election"

Page 4, delete section 6 and insert:

"Sec. 6. Minnesota Statutes 2008, section 326B.145, is amended to read:

326B.145 ANNUAL REPORT.

~~Beginning with the first report filed by June 30, 2003,~~ Each municipality shall annually report by June 30 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors if the cumulative fees collected exceeded \$5,000 in the reporting year, except that, for reports due June 30, 2009, to June 30, 2013, the reporting threshold is \$10,000. The report must include:

- (1) the number and valuation of units for which fees were paid;
- (2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and
- (3) the expenses associated with the municipal activities for which fees were collected.

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

Page 4, line 31, delete "which"

Page 15, delete section 24

Page 15, delete subdivisions 1 and 2

Page 15, line 33, delete "Subd. 3." and insert "Subdivision 1."

Page 16, line 2, before the period, insert "unless the upgrade or increased cost is required by federal law or rule"

Page 16, line 3, delete "4" and insert "2"

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 1197: A bill for an act relating to unemployment insurance; conforming Minnesota law to the requirements necessary to receive federal stimulus funds; appropriating money; amending Minnesota Statutes 2008, sections 268.035, subdivisions 4, as amended, 21a, 23a, by adding a subdivision; 268.07, subdivisions 1, 2; 268.085, subdivision 15; 268.095, subdivisions 1, 6.

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

Page 4, line 30, delete "unemployment" and insert "employment"

Page 5, line 2, delete "unemployment" and insert "employment"

Page 10, delete lines 31 to 33 and insert:

"(d) If the conduct for which the applicant was discharged involved only a single incident, that is an important fact that must be considered in deciding whether the conduct rises to the level of employment misconduct under paragraph (a)."

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

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 1106: A bill for an act relating to health occupations; establishing licensure and practice limitations for an oral health practitioner and a dental therapist; establishing fees; amending Minnesota Statutes 2008, sections 150A.01, by adding subdivisions; 150A.05, subdivision 2, by adding subdivisions; 150A.06, subdivisions 2d, 5, 6, by adding subdivisions; 150A.08, subdivisions 1, 3a, 5; 150A.09, subdivisions 1, 3; 150A.091, subdivisions 2, 3, 5, 8, 10; 150A.10, subdivisions 1, 2, 3, 4; 150A.11, subdivision 4; 150A.12; 150A.21, subdivisions 1, 4; 151.01, subdivision 23; 151.37, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 150A; repealing Minnesota Statutes 2008, section 150A.061.

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

Page 14, line 17, delete "shall be in violation" insert "violates"

Page 14, line 28, delete "in which" and insert "with whom"

Page 16, line 8, delete the first "the"

Page 17, lines 18 and 22, delete "Minnesota" and insert "state public"

Page 18, line 31, delete everything before "sections" and insert "violates"

Page 26, after line 11, insert:

"(d) The evaluation process shall be used by the board in the report required in paragraph (a) and shall expire January 1, 2014.

Sec. 35. **APPROPRIATION.**

(a) \$93,000 is appropriated in fiscal year 2010 and \$17,000 is appropriated in fiscal year 2011 from the state government special revenue fund to the Board of Dentistry for the purpose of licensing oral health practitioners and dental therapists. The base appropriation of the Board of Dentistry shall be decreased by \$11,000 for fiscal years 2012 and 2013.

(b) The base appropriation for the Department of Health from the state government special revenue fund is increased by \$48,000 in fiscal year 2012 and by \$141,000 in fiscal year 2013 for the purpose of the evaluation process for assessing the impact of oral health practitioners and dental therapists. This appropriation shall not be added to the department's base after fiscal year 2014."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the second semicolon, insert "appropriating money;"

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

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 107: A bill for an act relating to state government; clarifying and strengthening laws prohibiting misuse of state funds; prescribing criminal penalties; amending Minnesota Statutes 2008, sections 3.971, subdivision 6; 3.975; 16A.139; proposing coding for new law in Minnesota Statutes, chapter 43A.

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

Page 2, delete section 2

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Cohen from the Committee on Finance, to which was referred

S.F. No. 95: A bill for an act relating to state government finance; providing deficiency funding for certain state agencies; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. **SUMMARY OF APPROPRIATIONS.**

The amount shown in this section summarizes direct appropriations, by fund, made in this act.

		<u>2009</u>
<u>General</u>	\$	<u>17,060,000</u>

Sec. 2. **APPROPRIATIONS.**

The sums shown in the column marked "Appropriations" are appropriated to the agencies and for the purposes specified in this act. The appropriations are from the general fund. The figure "2009" used in this act means that the appropriations listed under it are available for the fiscal year ending June 30, 2009.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
		<u>2009</u>
Sec. 3. <u>PUBLIC SAFETY</u>	\$	<u>1,060,000</u>

Emergency Management/State Match for Disaster Assistance Payments

This appropriation is to provide a match for Federal Emergency Management Agency (FEMA) disaster assistance payments under Minnesota Statutes, section 12.221. This is a onetime appropriation.

Sec. 4. <u>HUMAN SERVICES</u>	\$	<u>16,000,000</u>
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Minnesota Sex Offender Program

This appropriation is added to the appropriation in Laws 2007, chapter 147, article 19, section 3, subdivision 10, paragraph (b), for the Minnesota Sex Offender Program. This is a onetime appropriation.

Sec. 5. **EFFECTIVE DATE.**

This act is effective the day following final enactment."

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

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 1329: A bill for an act relating to the Public Facilities Authority; providing for federal use of funds allocated to the state by the American Recovery and Reinvestment Act; providing for clean water and drinking water loans and grants; appropriating money; amending Minnesota Statutes 2008, sections 446A.07, subdivision 7; 446A.081, subdivision 8.

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 2008, section 446A.07, subdivision 7, is amended to read:

Subd. 7. **Loan conditions.** (a) When making loans from the clean water revolving fund, the authority shall comply with the conditions of the Federal Water Pollution Control Act, including the criteria in this subdivision.

~~(a)~~ (b) Loans must be made at or below market interest rates, including interest-free loans, at for terms not to exceed 20 years those allowed under the federal Water Pollution Control Act.

~~(b)~~ (c) The annual principal and interest payments must begin no later than one year after completion of a the project. Loans must be fully amortized no later than 20 years after project completion, unless the recipient's average annual residential wastewater system cost after completion of the project would exceed 1.4 percent of median household income in the recipient governmental unit or entity, in which case the loan must be fully amortized no later than 30 years after project completion.

~~(c)~~ (d) An eligible recipient shall establish a dedicated source of revenue for repayment of the loan.

~~(d)~~ (e) The fund must be credited with all payments of principal and interest on all loans.

~~(e)~~ (f) A loan may not be used to pay operating expenses or current obligations, unless specifically allowed by the Federal Water Pollution Control Act.

~~(f)~~ (g) A loan made by the authority must be secured by notes or bonds of the eligible recipient of the loan.

Sec. 2. Minnesota Statutes 2008, section 446A.081, subdivision 8, is amended to read:

Subd. 8. **Loan conditions.** (a) When making loans from the drinking water revolving fund, the authority shall comply with the conditions of the federal Safe Drinking Water Act, including the criteria in ~~paragraphs (b) to (e)~~ this subdivision.

(b) Loans must be made at or below market interest rates, including zero interest loans, for terms not to exceed ~~20 years~~ those allowed under the federal Safe Drinking Water Act.

(c) The annual principal and interest payments must begin no later than one year after completion of the project. Loans must be amortized no later than 20 years after project completion, unless the recipient's average annual residential drinking water system cost after completion of the project would exceed 1.4 percent of median household income in the recipient governmental unit or entity, in which case the loan must be fully amortized no later than 30 years after project completion.

(d) A loan recipient must identify and establish a dedicated source of revenue for repayment of the loan, and provide for a source of revenue to properly operate, maintain, and repair the water system.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) A loan may not be used to pay operating expenses or current obligations, unless specifically allowed by the federal Safe Drinking Water Act.

(g) A loan made by the authority must be secured by notes or bonds of the governmental unit and collateral to be determined by the authority for private borrowers.

Sec. 3. FEDERAL STIMULUS MONEY FOR CLEAN WATER.

Subdivision 1. Clean water revolving fund loans and grants. Pursuant to Public Law 111-5, the American Recovery and Reinvestment Act of 2009, referred to in this section as "the Act," federal money allocated under the Act for capitalization grants for clean water state revolving funds must be credited to the clean water revolving fund under Minnesota Statutes, section 446A.07, for the purpose of making loans and grants to eligible projects as provided in this section, Minnesota Statutes, section 446A.07, and the Act. Authorization to make loans and grants under this section expires when all money received under the Act and credited to the clean water revolving fund has been expended. For the purpose of this section, the term "grant" includes principal forgiveness that is granted at the time a loan is made.

Subd. 2. Grants required. Not less than 50 percent of the money received under the Act and credited to the clean water revolving fund must be used to provide grants to eligible projects as provided in subdivision 4, or to provide grants to eligible projects for up to 65 percent of the eligible grant need identified by the United States Department of Agriculture Rural Economic and Community Development Program.

Subd. 3. Green infrastructure. To the extent that there are sufficient eligible project applications, not less than 20 percent of the money received under the Act and credited to the clean water revolving fund must be used for grants and loans for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. Grants made under this subdivision count toward the 50 percent requirement in subdivision 2.

Subd. 4. Grant and loan terms. (a) Grants under this section must be based on as-bid costs and awarded to eligible projects as provided in this subdivision in the order that projects are certified by the Pollution Control Agency and as-bid costs are submitted to the Public Facilities Authority.

(b) Except for projects that receive a grant under paragraph (d), a base grant must be provided for 20 percent of the amount approved to be paid from the clean water revolving fund, up to a maximum of \$2,000,000 per project.

(c) Except for projects that receive a grant under paragraph (d), a supplemental grant must be provided if the average annual residential wastewater system cost after completion in the project would otherwise exceed 1.4 percent of the median household income in the recipient governmental unit or entity. In determining whether the average annual residential wastewater system cost would exceed 1.4 percent, the authority must consider the total costs associated with building, operating, and maintaining the wastewater system, including debt service and operation and maintenance costs.

The amount of the supplemental grant is equal to 80 percent of the amount needed to reduce the average annual residential wastewater system cost to 1.4 percent of median household income in the recipient, to a maximum of \$4,000,000 or \$15,000 per connection, whichever is less. The amount of the supplemental grant must not exceed 80 percent of the total amount approved to be paid from the clean water revolving fund.

(d) For eligible projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities, a grant must be provided for 25 percent of the amount approved to be paid from the clean water revolving fund, to a maximum of \$2,000,000 per project.

Sec. 4. FEDERAL STIMULUS MONEY FOR DRINKING WATER.

Subdivision 1. **Drinking water revolving fund loans and grants.** Pursuant to Public Law 111-5, the American Recovery and Reinvestment Act of 2009, federal money allocated under the Act for capitalization grants for drinking water state revolving funds must be credited to the drinking water revolving fund under Minnesota Statutes, section 446A.081, for the purpose of making loans and grants to eligible projects as provided in this section, Minnesota Statutes, section 446A.081, and the Act. Authorization to make loans and grants under this section expires when all money received under the Act and credited to the drinking water revolving fund has been expended. For the purpose of this section, the term "grant" includes principal forgiveness that is granted at the time a loan is made.

Subd. 2. **Grants required.** Not less than 50 percent of the money received under the Act and credited to the drinking water state revolving fund must be used to provide grants to eligible projects as provided in subdivision 4, or to provide grants to eligible projects for up to 65 percent of the eligible grant need identified by the United States Department of Agriculture Rural Economic and Community Development Program.

Subd. 3. **Green infrastructure.** To the extent that there are sufficient eligible project applications, not less than 20 percent of the money received under the Act and credited to the drinking water revolving fund must be used for grants and loans for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. Grants made under this subdivision count toward the 50 percent requirement in subdivision 2.

Subd. 4. **Grant and loan terms.** (a) Grants under this section must be based on as-bid costs and awarded as provided in this subdivision to eligible projects in the order that projects are certified by the Department of Health and as-bid costs are submitted to the Public Facilities Authority.

(b) Except for projects that receive a grant under paragraph (d) or (e), a base grant must be provided for 20 percent of the amount approved to be paid from the drinking water revolving fund, up to a maximum of \$2,000,000 per project.

(c) Except for projects that receive a grant under paragraph (d) or (e), a supplemental grant must be provided if the average annual residential drinking water system cost after completion of the project would otherwise exceed 1.4 percent of the median household income in the recipient governmental unit or entity. In determining whether the average annual residential drinking water system cost would exceed 1.4 percent, the authority must consider the total costs associated with building, operating and maintaining the drinking water system, including debt service and operation

and maintenance costs. The amount of the supplemental grant is equal to 80 percent of the amount needed to reduce the average annual residential drinking water system cost to 1.4 percent of median household income in the recipient, to a maximum of \$4,000,000 or \$15,000 per connection. The amount of the supplemental grant must not exceed 80 percent of the total amount approved to be paid from the drinking water revolving fund.

(d) For eligible projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities, a grant must be provided for 25 percent of the amount approved to be paid from the drinking water revolving fund, to a maximum of \$2,000,000 per project.

(e) For projects needed to comply with national primary drinking water standards for an existing community public water system or for an existing noncommunity public water system, a grant must be provided for 50 percent of the project cost, up to a maximum of \$10,000. Total grants approved under this paragraph must not exceed \$250,000.

Sec. 5. EFFECTIVE DATE.

This act is effective the day following final enactment."

Amend the title accordingly

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

Senator Cohen from the Committee on Finance, to which was referred

S.F. No. 1511: A bill for an act relating to transportation; providing for receipt and appropriation of federal economic recovery funds; amending Minnesota Statutes 2008, section 161.36, by adding a subdivision.

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

Page 1, line 8, after "available" insert "as of the effective date of this section"

Page 1, line 12, delete "This"

Page 1, delete lines 13 to 16 and insert:

"(b) The commissioner shall expend up to one-half of one percent of the appropriations under paragraph (a) as grants to opportunity industrialization centers and other nonprofit job training centers for job training programs related to highway construction."

Page 1, line 17, delete "(b)" and insert "(c)"

Page 1, line 19, delete "(c)" and insert "(d)"

Page 1, after line 21, insert:

"(e) The commissioner shall, in utilizing federal economic recovery funds, comply in all respects with section 174.03, subdivision 11, regarding the disadvantaged business enterprise program, including, but not limited to, the setting of disadvantaged business enterprise project goals and inclusion of sanctions in each contract for failure to meet established goals.

(f) The commissioner shall continue departmental compliance with accessibility requirements of the Americans with Disabilities Act in all applicable projects funded under this subdivision."

Page 1, line 22, delete "(d)" and insert "(g)"

Page 2, line 1, delete "(e)" and insert "(h)"

Page 2, after line 9, insert:

"(i) The commissioner shall report annually by February 1 to the legislative committees with jurisdiction over transportation policy and finance concerning the application of the commissioner's disadvantaged business enterprise program to the use of the federal economic recovery funds. The report must:

(1) state the department's annual overall goal, compared with the percentage attained;

(2) explain the methodology, applicable facts, and public participation used to establish the overall goal;

(3) describe good-faith efforts to meet the goal, if the goal was not attained;

(4) describe actions to address overconcentration of disadvantaged business enterprises in certain types of work;

(5) state the number of contracts that included disadvantaged business enterprise goals, the number of contractors that met established disadvantaged business enterprise goals, and sanctions imposed for lack of good-faith effort; and

(6) describe the contracts with no disadvantaged business enterprise goals and, of those, state the number of contracts and amount of each contract with targeted groups under section 16C.16.

(j) Within one week of an advertisement for projects funded under the American Recovery and Reinvestment Act of 2009, the Minnesota Department of Transportation shall publish to its Web site a report on the criteria used in selecting the advertised projects, including a listing of which agency goals are supported by the advertised projects."

Page 2, after line 11, insert:

"Sec. 2. Minnesota Statutes 2008, section 161.36, is amended by adding a subdivision to read:

Subd. 8. **Receipt of additional economic recovery funds.** (a) The "Transportation Contingent Appropriations Group" consists of:

(1) the members of the Legislative Advisory Commission under section 3.30; and

(2) the ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance.

(b) The commissioner shall submit to members of the Transportation Contingent Appropriations Group written notice and request for appropriation authority of funds made available to the commissioner under the American Recovery and Reinvestment Act of 2009 that are received after the effective date of this section. The notice must request the written approval or disapproval of each member within ten days of the date of notification. Upon approval of the governor and the

written approval of a minimum of five members of the Transportation Contingent Appropriations Group, the funds are appropriated to the commissioner from the trunk highway fund or the federal fund, as appropriate, and must be utilized in conformance with subdivision 7.

(c) Failure or refusal of any member of the Transportation Contingent Appropriations Group to provide written approval or disapproval within ten days shall be deemed to be an approval by that member.

EFFECTIVE DATE. This section is effective the day following final enactment, and expires on June 30, 2013."

Amend the title numbers accordingly

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. 1778: A resolution memorializing the Congress of the United States to oppose enactment of legislation of the substance and tenor of S. 40/H.R. 3200 – the National Insurance Act of 2007 – proposed optional federal charter legislation.

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

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

S.F. No. 1761: A bill for an act relating to insurance; requiring health plans to establish equal out-of-pocket requirements for oral chemotherapy medications and intravenously administered chemotherapy medications; proposing coding for new law in Minnesota Statutes, chapter 62A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Health, Housing and Family Security. Report adopted.

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

S.F. No. 688: A bill for an act relating to insurance; requiring health plans to cover formulary-based wound care; proposing coding for new law in Minnesota Statutes, chapter 62Q.

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

Delete everything after the enacting clause and insert:

"Section 1. **[62Q.59] FORMULARY-BASED WOUND CARE.**

(a) A health plan must cover formulary-based wound care for persons receiving services in a primary care clinic or other outpatient setting, or residing in a nursing facility licensed under sections 144A.02 to 144A.10, if prescribed by a physician or an advanced practice nurse with prescribing authority. Formulary-based wound care must be prescribed under bundled medical

codes for an episode of care, and must use Web-based software and electronic medical records to measure, monitor, report, and evaluate treatments and outcomes.

(b) For purposes of this section, "formulary-based wound care" means a process that uses wound treatment and prevention technologies with FDA-approved component materials, including pulsed electromagnetic field therapy, and prescription drugs for treatment of wounds.

(c) For purposes of this section, "health plan" includes coverage described in section 62A.011, subdivision 3, clause (9).

EFFECTIVE DATE. This section is effective January 1, 2010, and applies to health plans offered, sold, issued, or renewed on or after that date."

And when so amended the bill be re-referred to the Committee on Health, Housing and Family Security without recommendation. Amendments adopted. Report adopted.

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

S.F. No. 1110: A bill for an act relating to natural resources; modifying wild rice season; modifying certain definitions; modifying state park permit requirements; modifying authority to establish secondary units; eliminating liquor service at John A. Latsch State Park; providing for establishment of boater waysides; modifying watercraft operation requirements; providing for appeals and enforcement of certain civil penalties; providing for taking wild animals to protect public safety; modifying Board of Water and Soil Resources membership; modifying local water program; modifying Reinvest in Minnesota Resources Law; modifying certain easement authority; providing for notice of changes to public waters inventory; modifying critical habitat plate eligibility; modifying cost-share program; modifying conditions for temporary drawdown of public waters; providing certain exemptions from local ordinances; approving the consumptive use of water for certain uses; authorizing expedited rulemaking; requiring rulemaking; amending Minnesota Statutes 2008, sections 84.027, subdivision 13; 84.105; 84.66, subdivision 2; 85.053, subdivision 3; 85.054, by adding subdivisions; 86A.05, by adding a subdivision; 86A.08, subdivision 1; 86A.09, subdivision 1; 86B.311, by adding a subdivision; 97A.137, by adding a subdivision; 97A.321; 103B.101, subdivisions 1, 2; 103B.3369, subdivision 5; 103C.501, subdivisions 2, 4, 5, 6; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 103G.201; 168.1296, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 97B; 103G; repealing Minnesota Statutes 2008, sections 84.02; 85.0505, subdivision 2; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3000; 8400.3030; 8400.3060; 8400.3110; 8400.3130; 8400.3160; 8400.3200; 8400.3210; 8400.3230; 8400.3260; 8400.3300; 8400.3330; 8400.3360; 8400.3390; 8400.3400; 8400.3460; 8400.3500; 8400.3530; 8400.3560; 8400.3600; 8400.3610; 8400.3630; 8400.3700; 8400.3730; 8400.3800; 8400.3830; 8400.3870; 8400.3930.

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

Page 3, after line 23, insert:

"Sec. 4. **[84.774] OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES.**

(a) Except as provided in paragraph (b), a person who violates a provision of sections 84.773;

84.777; 84.788 to 84.795; 84.798 to 84.804; 84.90; or 84.922 to 84.928 or rules of the commissioner relating to off-highway vehicle use is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor if the person violates section 84.773, subdivision 2, clause (2), and the person recklessly upsets the natural and ecological balance of a wetland or public waters wetland.

(c) A person is prohibited from operating an off-highway vehicle for a period of one year if the person is:

(1) convicted of a gross misdemeanor under paragraph (b);

(2) convicted of or subject to a final order under section 84.775 for a violation on the prohibition on the intentional operation on unfrozen public water, in a state park, in a scientific and natural area, or in a wildlife management area under section 84.773, subdivision 1, clause (3);

(3) convicted of or is subject to a final order under section 84.775 for a violation on the prohibition on the willful, wanton, or reckless disregard for the safety of persons or property under section 84.773, subdivision 2, clause (1); or

(4) convicted of or subject to a final order under section 84.775 for a violation on the prohibition on carelessly upsetting the natural and ecological balance of a wetland or public waters wetland under section 84.773, subdivision 2, clause (2).

The commissioner shall notify the person of the time period during which the person is prohibited from operating an off-highway vehicle.

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

Sec. 5. **[84.7741] OFF-HIGHWAY VEHICLE FORFEITURE.**

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense.

(c) "Claimant" means an owner of an off-highway vehicle or a person claiming a leasehold or security interest in an off-highway vehicle.

(d) "Designated offense" means a second gross misdemeanor violation under section 84.774, paragraph (b).

(e) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, or great-aunt; or

(3) persons residing together or persons who regularly associate and communicate with one

another outside of a workplace setting.

(f) "Off-highway vehicle" and "vehicle" do not include an off-highway vehicle that is stolen or taken in violation of the law.

(g) "Owner" means a person legally entitled to possession, use, and control of an off-highway vehicle, including a lessee of an off-highway vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of an off-highway vehicle according to the records of the Department of Public Safety or the Department of Natural Resources is the legal owner. For purposes of this section, if an off-highway vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

(h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred, or a designee, who is responsible for prosecuting violations of a designated offense. If a state agency initiated the forfeiture and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the attorney general's office, or its designee, may initiate forfeiture under this section.

(i) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if an off-highway vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

Subd. 2. **Seizure.** (a) An off-highway vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible by serving a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the Department of Public Safety or Department of Natural Resources.

Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest in an off-highway vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense giving rise to the forfeiture. Any vehicle seized under this section is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When an off-highway vehicle is seized under this section, the appropriate agency may:

(1) place the vehicle under seal;

- (2) remove the vehicle to a place designated by the agency;
- (3) place a disabling device on the vehicle; and
- (4) take other steps reasonable and necessary to secure the vehicle and prevent waste.

Subd. 4. **Bond by owner for possession.** If the owner of an off-highway vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner. The forfeiture action must proceed against the security as if it were the seized vehicle.

Subd. 5. **Evidence.** Certified copies of court records and off-highway vehicle and driver's records concerning prior incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense.

Subd. 6. **Vehicle subject to forfeiture.** An off-highway vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense.

Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway vehicle is presumed subject to forfeiture under this section if the driver:

- (1) is convicted of the designated offense upon which the forfeiture is based; or
- (2) fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance.

(b) An off-highway vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in an off-highway vehicle is not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act or omission upon which the forfeiture is based if the secured party or lessor demonstrates by clear and convincing evidence that the party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) An off-highway vehicle is not subject to forfeiture under this section if its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of the owner and has three or more prior off-highway vehicle convictions, the owner is presumed to know of any vehicle use by the offender that is contrary to law.

Subd. 8. **Administrative forfeiture procedure.** (a) An off-highway vehicle used to commit a designated offense is subject to administrative forfeiture under this subdivision.

(b) When an off-highway vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when an off-highway vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For off-highway vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of the seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially, the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 84.7741, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of an off-highway vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted according to subdivision 9.

Subd. 9. Judicial forfeiture procedure. (a) This subdivision governs judicial determinations of the forfeiture of an off-highway vehicle used to commit a designated offense. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint against the vehicle, describing it, specifying that it was used in the commission of a designated offense, and specifying the time and place of its unlawful use.

(c) The prosecuting authority may file an answer to a properly served demand for judicial determination, including an affirmative counterclaim for forfeiture. The prosecuting authority is not required to file an answer.

(d) A judicial determination under this subdivision must not precede adjudication in the criminal prosecution of the designated offense without the consent of the prosecuting authority. The district court administrator shall schedule the hearing as soon as practicable after adjudication in the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

(e) There is a presumption that an off-highway vehicle seized under this section is subject to forfeiture if the prosecuting authority establishes that the vehicle was used in the commission of a designated offense. A claimant bears the burden of proving any affirmative defense raised.

(f) If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of subdivision 12.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense can be determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of subdivision 12.

(h) If the court orders the return of a seized vehicle under this subdivision, it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211. Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited off-highway vehicle for official use, the agency shall make reasonable efforts to ensure that the off-highway vehicle is available for use by the agency's officers who participate in off-highway vehicle enforcement or education programs.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in purchasing equipment for off-highway vehicle enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution with a valid security interest in or a valid lease covering a forfeited off-highway vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 10. A financial institution wishing to dispose of an off-highway vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement and the financial institution agrees not to sell the vehicle to a family or household member of the violator, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

(b) After disposing of the forfeited vehicle, the financial institution shall reimburse the appropriate agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in subdivision 10.

Subd. 12. **Redemption requirements.** (a) If an off-highway vehicle is seized by a peace officer for a designated offense, the seized vehicle must be released only:

(1) to the registered owner, a person authorized by the registered owner, a lienholder of record, or a person who has purchased the vehicle from the registered owner who provides proof of ownership of the vehicle;

(2) if the vehicle is subject to a rental or lease agreement, to a renter or lessee who provides a copy of the rental or lease agreement; or

(3) to an agent of a towing company authorized by a registered owner if the owner provides proof of ownership of the vehicle.

(b) The proof of ownership or, if applicable, the copy of the rental or lease agreement required under paragraph (a) must be provided to the law enforcement agency seizing the vehicle or to a person or entity designated by the law enforcement agency to receive the information.

(c) No law enforcement agency, local unit of government, or state agency is responsible or financially liable for any storage fees incurred due to a seizure under this section.

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

Sec. 6. Minnesota Statutes 2008, section 84.928, subdivision 1a, is amended to read:

Subd. 1a. **Crossing a public road right-of-way.** (a) An all-terrain vehicle may make a direct crossing of a public road right-of-way provided:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;

(2) the vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the road;

(3) the driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;

(4) in crossing a divided road, the crossing is made only at an intersection of the road with another public road; and

(5) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

(b) An all-terrain vehicle may be operated upon a bridge, other than a bridge that is part of the main-traveled lanes of an interstate highway, or roadway shoulder or inside bank of a public road right-of-way when required for the purpose of avoiding obstructions to travel or environmentally sensitive areas when no other method of avoidance is possible; provided the all-terrain vehicle is operated in the extreme right-hand lane, the entrance to the roadway is made within 100 feet of the bridge ~~or~~, obstacle, or sensitive area, and the crossing is made without undue delay.

(c) A person shall not operate an all-terrain vehicle upon a public street or highway unless the vehicle is equipped with at least one headlight and one taillight, each of minimum candlepower as prescribed by rules of the commissioner, and with brakes conforming to standards prescribed by rule of the commissioner, and all of which are subject to the approval of the commissioner of public safety.

(d) An all-terrain vehicle may be operated upon a public road right-of-way other than as provided by paragraph (b) in an emergency during the period of time when and at locations where the condition of the roadway renders travel by automobile impractical.

(e) Chapters 169 and 169A apply to the operation of all-terrain vehicles upon streets and highways, except for those provisions relating to required equipment and except those provisions which by their nature have no application.

(f) A sled, trailer, or other device being towed by an all-terrain vehicle must be equipped with reflective materials as required by rule of the commissioner.

(g) A driver's license is not required to operate an all-terrain vehicle along or on a public road right-of-way if the right-of-way encompasses a trail administered by the commissioner and designated for all-terrain vehicle use or multiple use.

(h) A road authority as defined in section 160.02, subdivision 25, may by permit designate corridor access trails on public road rights-of-way for purposes of accessing established all-terrain vehicle trails. A driver's license is not required to operate an all-terrain vehicle on a designated corridor access trail."

Page 20, line 5, before "The" insert "(a)"

Page 20, after line 7, insert:

"(b) In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>84.777</u>	<u>84.805</u>	<u>84.804</u>
<u>84.777</u>	<u>84.929</u>	<u>84.928</u>
<u>84.787, subd. 1</u>	<u>84.796</u>	<u>84.795</u>
<u>84.788, subd. 9</u>	<u>84.796</u>	<u>84.795</u>
<u>84.791, subd. 4</u>	<u>84.796</u>	<u>84.795</u>
<u>84.794, subd. 2</u>	<u>84.796</u>	<u>84.795</u>
<u>84.795, subd. 8</u>	<u>84.796</u>	<u>84.795</u>
<u>84.797, subd. 1</u>	<u>84.805</u>	<u>84.804</u>
<u>84.798, subd. 8</u>	<u>84.805</u>	<u>84.804</u>
<u>84.804, subd. 6</u>	<u>84.805</u>	<u>84.804</u>
<u>84.92, subd. 1</u>	<u>84.929</u>	<u>84.928</u>
<u>84.922, subd. 9</u>	<u>84.929</u>	<u>84.928</u>
<u>84.925, subd. 3</u>	<u>84.929</u>	<u>84.928</u>
<u>84.9256, subd. 4</u>	<u>84.929</u>	<u>84.928</u>
<u>84.927, subd. 2</u>	<u>84.929</u>	<u>84.928</u>
<u>84.928, subd. 1</u>	<u>84.929</u>	<u>84.928</u>
<u>84.928, subd. 6</u>	<u>84.929</u>	<u>84.928"</u>

Page 20, line 9, after the first semicolon, insert "84.796; 84.805; 84.929;"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 14, after the third semicolon, insert "providing for seizure and forfeiture of certain off-highway vehicles; modifying operating restrictions for all-terrain vehicles; providing criminal penalties;"

Amend the title numbers accordingly

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.

SECOND READING OF SENATE BILLS

S.F. Nos. 1197, 107, 95, 1329 and 1511 were read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 95 and that the rules of the Senate be so far suspended as to give S.F. No. 95, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

S.F. No. 95: A bill for an act relating to state government finance; providing deficiency funding for certain state agencies; appropriating money.

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 49 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Koering	Ortman	Sheran
Bakk	Dille	Langseth	Pariseau	Skoe
Berglin	Doll	Limmer	Pogemiller	Skogen
Betzold	Fobbe	Lourey	Prettner Solon	Sparks
Bonoff	Foley	Marty	Robling	Stumpf
Carlson	Frederickson	Metzen	Rosen	Tomassoni
Chaudhary	Higgins	Moua	Rummel	Torres Ray
Clark	Ingebrigtsen	Murphy	Saltzman	Vanderveer
Cohen	Jungbauer	Olseen	Saxhaug	Wiger
Dahle	Kelash	Olson, M.	Scheid	

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time.

Senator Cohen introduced—

S.F. No. 1938: A bill for an act relating to state government finance; providing federal stimulus oversight funding for certain state agencies; appropriating money.

Referred to the Committee on Finance.

MEMBERS EXCUSED

Senator Latz was excused from the Session of today. Senator Doll was excused from the Session of today from 11:00 to 11:20 a.m. Senators Hann and Murphy were excused from the Session of today from 11:00 to 11:55 a.m. Senator Stumpf was excused from the Session of today from 11:10 to 11:20 a.m. Senators Day; Erickson Ropes; Fischbach; Gerlach; Gimse; Hann; Johnson; Koch; Kubly; Langseth; Lynch; Michel; Olson, G.; Pappas; Rest; Senjem; Sieben and Vickerman were excused from the Session of today at 5:15 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Monday, March 30, 2009. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

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