

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

THIRTY-SEVENTH DAY

St. Paul, Minnesota, Monday, April 14, 2003

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Albert Gallmon, Jr.

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

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

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

The President declared a quorum present.

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

REPORTS FILED WITH THE SECRETARY OF THE SENATE

The following reports were received and filed with the Secretary of the Senate: Department of Administration: Statewide 9-1-1 Emergency Telephone Service Program Report, March 1, 2003; and CriMNet Risk Assessment and Mitigation Project, February 14, 2003. Board on Judicial Standards: Annual Report 2002. Department of Children, Families and Learning: Advanced Placement and International Baccalaureate Program, February, 2003. Department of Corrections: Short-Term Offenders, 2003; 2002 Annual Performance Report; Level Three Sex Offenders Residential Placement Issues, 2003; Mental Health Correctional Policies and Practices by Minnesota Counties, March, 2003; Juvenile Placement Funds, FY01-02; and Interstate Compact for the Supervision of Parolees and Probationers, 2003. Department of Finance: Trunk Highway Expenditures Biennial Budget Submission, FY 2004-2005; and Debt Capacity Forecast, February, 2003. Department of Health: Office of Unlicensed Complementary and Alternative Health Care

Practice, January 1, 2003; Lead Poisoning Prevention Programs, Biennial Report, February, 2003; and Minnesota Emergency Health Powers Act Report, February 14, 2003. Department of Human Services: Reimbursing Children's Residential Mental Health Services in Iowa, North Dakota, South Dakota and Wisconsin, February, 2003; Furthering a Community-Based Mental Health System in Minnesota: State Operated Services Report, February, 2003; Case Management in Minnesota, February 12, 2003; Governor's Report on Compulsive Gambling; Information Technology 2003 Report; and Minnesota's Chemical Health System Report, February 21, 2003. Metropolitan Council: Metropolitan Sports Facilities Commission, Proposed Budget and Report on User Fee Charges, 2003; and Metropolitan Livable Communities Act Evaluation, 1996-2001. Department of Natural Resources: State Forest Nursery Program, FY 2002; and Riparian Forests in Minnesota: A Report to the Legislature on Harvest in 2002. Minnesota Pollution Control Agency: Annual Tracking Report for New Wastewater Facilities; Air Quality in Minnesota: Into the Future, March, 2003; and Annual Pollution Report, April 2003. Department of Revenue: 2003 Property Values and Assessment Practices Report. Minnesota Sentencing Guidelines Commission: Juvenile Out of State or Alternative Placement Report, February, 2003. Minnesota State Lottery: Annual Report, 2002. Department of Trade and Economic Development: 2002 Business Assistance Report. University of Minnesota and Minnesota State Colleges and Universities: Postsecondary Planning: A Joint Report, February, 2003.

RECESS

Senator Hottinger moved that the Senate do now recess until 10:40 a.m. The motion prevailed. The hour of 10:40 a.m. having arrived, 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.

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. 1001.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 10, 2003

Mr. President:

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

S.F. No. 187: A bill for an act relating to the state agricultural society; eliminating a prohibition on circuses around state fair time; repealing Minnesota Statutes 2002, section 37.26.

Senate File No. 187 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 7, 2003

CONCURRENCE AND REPASSAGE

Senator Dille moved that the Senate concur in the amendments by the House to S.F. No. 187 and that the bill be placed on its repassage as amended.

Senator Hottinger moved that the Senate do not concur in the amendments by the House to S.F. No. 187, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House.

CALL OF THE SENATE

Senator Limmer imposed a call of the Senate for the balance of the proceedings on S.F. No. 187. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Hottinger motion.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Marko	Ranum	Sparks
Bakk	Higgins	Marty	Rest	Tomassoni
Berglin	Hottinger	Metzen	Saxhaug	Wiger
Betzold	Kelley	Moua	Scheid	
Chaudhary	Kiscaden	Murphy	Skoe	
Cohen	Langseth	Pappas	Skoglund	
Dibble	Lourey	Pogemiller	Solon	

Those who voted in the negative were:

Bachmann	Hann	Koering	Neuville	Rosen
Belanger	Johnson, D.E.	Kubly	Nienow	Ruud
Day	Johnson, D.J.	Larson	Olson	Sams
Dille	Jungbauer	LeClair	Ortman	Senjem
Fischbach	Kierlin	Limmer	Pariseau	Stumpf
Frederickson	Kleis	McGinn	Reiter	Vickerman
Gaither	Knutson	Michel	Robling	Wergin

The motion did not prevail.

The question recurred on the adoption of the Dille motion.

The roll was called, and there were yeas 40 and nays 26, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.E.	Langseth	Nienow	Sams
Belanger	Johnson, D.J.	Larson	Olson	Saxhaug
Day	Jungbauer	LeClair	Ortman	Senjem
Dille	Kierlin	Limmer	Pariseau	Skoe
Fischbach	Kleis	McGinn	Reiter	Sparks
Frederickson	Knutson	Michel	Robling	Stumpf
Gaither	Koering	Murphy	Rosen	Vickerman
Hann	Kubly	Neuville	Ruud	Wergin

Those who voted in the negative were:

Anderson	Dibble	Lourey	Pogemiller	Tomassoni
Bakk	Foley	Marko	Ranum	Wiger
Berglin	Higgins	Marty	Rest	
Betzold	Hottinger	Metzen	Scheid	
Chaudhary	Kelley	Moua	Skoglund	
Cohen	Kiscaden	Pappas	Solon	

The motion prevailed.

S.F. No. 187: A bill for an act relating to health; requiring informed consent of a female upon whom an abortion is performed; providing civil remedies; repealing an obsolete law; appropriating money; amending Minnesota Statutes 2002, section 145.4134; proposing coding for new law in Minnesota Statutes, chapter 145; repealing Minnesota Statutes 2002, section 145.413, subdivision 1.

Was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 41 and nays 24, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.J.	LeClair	Ortman	Skoe
Belanger	Jungbauer	Limmer	Pariseau	Sparks
Day	Kierlin	McGinn	Reiter	Stumpf
Dille	Kleis	Metzen	Robling	Vickerman
Fischbach	Knutson	Michel	Rosen	Wergin
Frederickson	Koering	Murphy	Ruud	
Gaither	Kubly	Neuville	Sams	
Hann	Langseth	Nienow	Saxhaug	
Johnson, D.E.	Larson	Olson	Senjem	

Those who voted in the negative were:

Anderson	Cohen	Kiscaden	Pappas	Skoglund
Bakk	Dibble	Lourey	Pogemiller	Solon
Berglin	Foley	Marko	Ranum	Tomassoni
Betzold	Higgins	Marty	Rest	Wiger
Chaudhary	Kelley	Moua	Scheid	

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

RECONSIDERATION

Having voted on the prevailing side, Senator Neuville moved that the vote whereby S.F. No. 187 was passed by the Senate on April 14, 2003, be now reconsidered.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 24 and nays 41, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Lourey	Pappas	Skoglund
Bakk	Dibble	Marko	Pogemiller	Solon
Berglin	Foley	Marty	Ranum	Tomassoni
Betzold	Higgins	Metzen	Rest	Wiger
Chaudhary	Kelley	Moua	Scheid	

Those who voted in the negative were:

Bachmann	Johnson, D.J.	Larson	Ortman	Skoe
Belanger	Jungbauer	LeClair	Pariseau	Sparks
Day	Kierlin	Limmer	Reiter	Stumpf
Dille	Kiscaden	McGinn	Robling	Vickerman
Fischbach	Kleis	Michel	Rosen	Wergin
Frederickson	Knutson	Murphy	Ruud	
Gaither	Koering	Neuville	Sams	
Hann	Kubly	Nienow	Saxhaug	
Johnson, D.E.	Langseth	Olson	Senjem	

The motion did not prevail.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 790: A bill for an act relating to human services; recodifying and reorganizing the background study provisions in the Human Services Licensing Act; making conforming changes; amending Minnesota Statutes 2002, sections 245A.04, subdivisions 1, 3, 3a, 3b, 3c, 3d, 3e, 3f; 245A.041; proposing coding for new law as Minnesota Statutes, chapter 245C.

Senate File No. 790 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 10, 2003

CONCURRENCE AND REPASSAGE

Senator Kiscaden moved that the Senate concur in the amendments by the House to S.F. No. 790 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 790 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 335, 956, 1059, 1095 and 1374.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 10, 2003

FIRST READING OF HOUSE BILLS

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

H.F. No. 335: A bill for an act relating to water; requiring new landscape irrigation systems to have furnished and installed moisture or rainfall sensing equipment; proposing coding for new law in Minnesota Statutes, chapter 103G.

Pursuant to Rule 45, placed on the Comparison Calendar.

H.F. No. 956: A bill for an act relating to veterans homes; clarifying use of certain funds; amending Minnesota Statutes 2002, section 198.261.

Pursuant to Rule 45, placed on the Comparison Calendar.

H.F. No. 1059: A bill for an act relating to housing; housing finance agency; making various clarifying, technical, and other changes to agency programs; increasing debt ceiling; extending civil service pilot project; amending Minnesota Statutes 2002, sections 462A.05, by adding a subdivision; 462A.057, subdivision 1; 462A.073, subdivision 2; 462A.21, subdivision 3a; 462A.22, subdivisions 1, 7; Laws 1993, chapter 301, section 1, subdivision 4, as amended; Laws 1995, chapter 248, article 12, section 2, as amended.

Pursuant to Rule 45, placed on the Comparison Calendar.

H.F. No. 1095: A bill for an act relating to human services; extending the deadline for commencing construction for previously approved moratorium projects; providing for expired and canceled proposals; amending Minnesota Statutes 2002, section 144A.073, by adding subdivisions.

Pursuant to Rule 45, placed on the Comparison Calendar.

H.F. No. 1374: A bill for an act relating to agriculture; providing for the headquarters of the department of agriculture to be named after Orville L. Freeman.

Pursuant to Rule 45, placed on the Comparison Calendar.

REPORTS OF COMMITTEES

Senator Rest moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1455, 267, 1462 and 1400. The motion prevailed.

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

S.F. No. 1045: A bill for an act relating to public employment; including public safety radio communications operators in the definition of essential employee; amending Minnesota Statutes 2002, section 179A.03, subdivision 7.

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

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

S.F. No. 834: A bill for an act relating to civil actions; providing limits on certain liability of certain nonprofit corporations providing day training and habilitation services for adults with mental retardation or daytime developmental achievement center services for children with mental retardation and related conditions or securing or maintaining homes for dependent and neglected children; proposing coding for new law in Minnesota Statutes, chapter 604A.

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

Delete everything after the enacting clause and insert:

"Section 1. [604A.34] [LIMITED LIABILITY FOR CERTAIN NONPROFIT CORPORATIONS.]

Subdivision 1. [LIMIT ON AMOUNT OF LIABILITY.] Nonprofit corporations governed by chapter 317A that:

(1) provide day training and habilitation services for adults with mental retardation and related conditions under sections 252.40 to 252.46 under a contract with a county or the state;

(2) provide daytime developmental achievement services for children with mental retardation and related conditions under a contract with a county or the state;

(3) are group homes serving children pursuant to Minnesota Rules, parts 9545.1410 to 9545.1470, under a contract with a county or the state; or

(4) provide skilled nursing home care;

are subject to the same liability limits provided for municipalities under section 466.04 with respect to claims for liability against the nonprofit corporation arising out of the care of or provision of authorized services to those individuals if the nonprofit corporation procures insurance against liability for claims described under this section and the insurance is in a minimum amount equal to the amounts specified for municipalities under section 466.04.

Subd. 2. [EFFECT OF EXCESS LIABILITY INSURANCE.] Notwithstanding subdivision 1, if the nonprofit corporation has insurance coverage in excess of the liability limits under section 466.04, the procurement of that insurance constitutes a waiver of those limits but only to the extent that valid and collectible insurance exceeds those limits and covers a claim. The purchase of excess insurance has no other effect on the liability of the nonprofit corporation.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective January 1, 2004, and applies to claims for professional liability arising from incidents occurring on or after that date."

Delete the title and insert:

"A bill for an act relating to civil actions; providing limits on certain liability of certain nonprofit corporations providing day training and habilitation services for adults with mental retardation, daytime developmental achievement center services for children with mental retardation and related conditions, providing group homes for children, or providing skilled nursing home care; proposing coding for new law in Minnesota Statutes, chapter 604A."

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

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

S.F. No. 1158: A bill for an act relating to public safety; modifying provisions relating to DWI breath-testing instruments; amending Minnesota Statutes 2002, sections 169A.03, subdivision 11; 169A.45, subdivision 4; 169A.51, subdivision 5; 169A.75; 360.0753, subdivision 4; 634.16.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Scheid from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 496: A bill for an act relating to economic development; authorizing the establishing of tax-free zones; providing tax exemptions for individuals and business entities in tax-free zones; providing for repayment of tax benefits under certain circumstances; providing for the payment of state aid; appropriating money; amending Minnesota Statutes 2002, sections 272.02, by adding a subdivision; 290.01, subdivisions 19b, 29; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivision 3; 297A.68, by adding a subdivision; 297B.03; proposing coding for new law in Minnesota Statutes, chapters 469; 477A.

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 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 56. [JOB OPPORTUNITY BUILDING ZONE PROPERTY.] (a) Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within a job opportunity building zone are exempt from ad valorem taxes levied under chapter 275.

(b) Improvements to real property, and tangible personal property, of an agricultural production facility located within an agricultural processing facility zone is exempt from ad valorem taxes levied under chapter 275.

(c) For property to qualify for exemption under paragraph (a), the occupant must be a qualified business, as defined in section 469.310.

(d) The exemption applies beginning for the first assessment year after designation of the job opportunity building zone by the commissioner of trade and economic development. The exemption applies to each assessment year that begins during the duration of the job opportunity building zone. This exemption does not apply to:

(1) the levy under section 475.61 or similar levy provisions under any other law to pay general obligation bonds in the job opportunity building zone; or

(2) a levy under section 126C.17, if the levy was approved by the voters before the designation of the job opportunity building zone.

[EFFECTIVE DATE.] This section is effective beginning for property taxes assessed in 2004, payable in 2005.

Sec. 2. Minnesota Statutes 2002, section 272.029, is amended by adding a subdivision to read:

Subd. 7. [EXEMPTION.] The tax imposed under this section does not apply to electricity produced by wind energy conversion systems located in a job opportunity building zone, designated under section 469.314, for the period of the zone designation. The exemption applies beginning for the first calendar year after designation of the zone and applies to each calendar year that begins during the designation of the zone.

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

Sec. 3. Minnesota Statutes 2002, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted in determining federal taxable income or used to claim the long-term care insurance credit under section 290.0672, the amount paid for health insurance of self-employed individuals as determined under section 162(1) of the Internal Revenue Code, except that the percent limit does not apply. If the individual deducted insurance payments under section 213 of the Internal Revenue Code of 1986, the subtraction under this clause must be reduced by the lesser of:

(i) the total itemized deductions allowed under section 63(d) of the Internal Revenue Code, less state, local, and foreign income taxes deductible under section 164 of the Internal Revenue Code and the standard deduction under section 63(c) of the Internal Revenue Code; or

(ii) the lesser of (A) the amount of insurance qualifying as "medical care" under section 213(d) of the Internal Revenue Code to the extent not deducted under section 162(1) of the Internal Revenue Code or excluded from income or (B) the total amount deductible for medical care under section 213(a);

(7) the exemption amount allowed under Laws 1995, chapter 255, article 3, section 2, subdivision 3;

(8) to the extent included in federal taxable income, postservice benefits for youth community service under section 124D.42 for volunteer service under United States Code, title 42, sections 12601 to 12604;

(9) to the extent not deducted in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code over \$500;

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

(11) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the

credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit; ~~and~~

(12) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero; and

(13) job opportunity building zone income as provided under section 469.316.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 4. Minnesota Statutes 2002, section 290.01, subdivision 29, is amended to read:

Subd. 29. [TAXABLE INCOME.] The term "taxable income" means:

- (1) for individuals, estates, and trusts, the same as taxable net income;
- (2) for corporations, the taxable net income less
 - (i) the net operating loss deduction under section 290.095; ~~and~~
 - (ii) the dividends received deduction under section 290.21, subdivision 4; and
 - (iii) the exemption for operating in a job opportunity building zone under section 469.317.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 5. Minnesota Statutes 2002, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

- (1) On the first \$25,680, 5.35 percent;
- (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
- (3) On all over \$102,030, 7.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first \$17,570, 5.35 percent;
- (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
- (3) On all over \$57,710, 7.85 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first \$21,630, 5.35 percent;
- (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- (3) On all over \$86,910, 7.85 percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1) and (6), and reduced by the subtraction under section 290.01, subdivision 19b, clause (13), and the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1) and (6), and reduced by the amounts specified in section 290.01, subdivision 19b, clause (1) and (13).

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 6. Minnesota Statutes 2002, section 290.06, is amended by adding a subdivision to read:

Subd. 29. **[JOB OPPORTUNITY BUILDING ZONE JOB CREDIT.]** A taxpayer that is a qualified business, as defined in section 469.310, subdivision 11, is allowed a credit as determined under section 469.318 against the tax imposed by this chapter.

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

Sec. 7. Minnesota Statutes 2002, section 290.067, subdivision 1, is amended to read:

Subdivision 1. **[AMOUNT OF CREDIT.]** (a) A taxpayer may take as a credit against the tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to the dependent care credit for which the taxpayer is eligible pursuant to the provisions of section 21 of the Internal Revenue Code subject to the limitations provided in subdivision 2 except that in determining whether the child qualified as a dependent, income received as a Minnesota family investment program grant or allowance to or on behalf of the child must not be taken into account in determining whether the child received more than half of the child's support from the taxpayer, and the provisions of section 32(b)(1)(D) of the Internal Revenue Code do not apply.

(b) If a child who has not attained the age of six years at the close of the taxable year is cared for at a licensed family day care home operated by the child's parent, the taxpayer is deemed to have paid employment-related expenses. If the child is 16 months old or younger at the close of the taxable year, the amount of expenses deemed to have been paid equals the maximum limit for one qualified individual under section 21(c) and (d) of the Internal Revenue Code. If the child is older than 16 months of age but has not attained the age of six years at the close of the taxable year, the amount of expenses deemed to have been paid equals the amount the licensee would charge for the care of a child of the same age for the same number of hours of care.

(c) If a married couple:

(1) has a child who has not attained the age of one year at the close of the taxable year;

(2) files a joint tax return for the taxable year; and

(3) does not participate in a dependent care assistance program as defined in section 129 of the Internal Revenue Code, in lieu of the actual employment related expenses paid for that child under paragraph (a) or the deemed amount under paragraph (b), the lesser of (i) the combined earned income of the couple or (ii) the amount of the maximum limit for one qualified individual under section 21(c) and (d) of the Internal Revenue Code will be deemed to be the employment related expense paid for that child. The earned income limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed amount. These deemed amounts apply regardless of whether any employment-related expenses have been paid.

(d) If the taxpayer is not required and does not file a federal individual income tax return for the tax year, no credit is allowed for any amount paid to any person unless:

(1) the name, address, and taxpayer identification number of the person are included on the return claiming the credit; or

(2) if the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence does not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information required.

In the case of a nonresident, part-year resident, or a person who has earned income not subject to tax under this chapter including earned income excluded pursuant to section 290.01, subdivision 19b, clause (13), the credit determined under section 21 of the Internal Revenue Code must be allocated based on the ratio by which the earned income of the claimant and the claimant's spouse from Minnesota sources bears to the total earned income of the claimant and the claimant's spouse.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 8. Minnesota Statutes 2002, section 290.0671, subdivision 1, is amended to read:

Subdivision 1. [CREDIT ALLOWED.] (a) An individual is allowed a credit against the tax imposed by this chapter equal to a percentage of earned income. To receive a credit, a taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

(b) For individuals with no qualifying children, the credit equals 1.9125 percent of the first \$4,620 of earned income. The credit is reduced by 1.9125 percent of earned income or modified adjusted gross income, whichever is greater, in excess of \$5,770, but in no case is the credit less than zero.

(c) For individuals with one qualifying child, the credit equals 8.5 percent of the first \$6,920 of earned income and 8.5 percent of earned income over \$12,080 but less than \$13,450. The credit is reduced by 5.73 percent of earned income or modified adjusted gross income, whichever is greater, in excess of \$15,080, but in no case is the credit less than zero.

(d) For individuals with two or more qualifying children, the credit equals ten percent of the first \$9,720 of earned income and 20 percent of earned income over \$14,860 but less than \$16,800. The credit is reduced by 10.3 percent of earned income or modified adjusted gross income, whichever is greater, in excess of \$17,890, but in no case is the credit less than zero.

(e) For a nonresident or part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter including income excluded under section 290.01, subdivision 19b, clause (13), the credit must be allocated based on the ratio of federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income.

(g) For tax years beginning after December 31, 2001, and before December 31, 2004, the \$5,770 in paragraph (b) is increased to \$6,770, the \$15,080 in paragraph (c) is increased to \$16,080, and the \$17,890 in paragraph (d) is increased to \$18,890 for married taxpayers filing joint returns.

(h) For tax years beginning after December 31, 2004, and before December 31, 2007, the \$5,770 in paragraph (b) is increased to \$7,770, the \$15,080 in paragraph (c) is increased to \$17,080, and the \$17,890 in paragraph (d) is increased to \$19,890 for married taxpayers filing joint returns.

(i) For tax years beginning after December 31, 2007, and before December 31, 2010, the \$5,770 in paragraph (b) is increased to \$8,770, the \$15,080 in paragraph (c) is increased to \$18,080 and the \$17,890 in paragraph (d) is increased to \$20,890 for married taxpayers filing joint returns.

(j) The commissioner shall construct tables showing the amount of the credit at various income levels and make them available to taxpayers. The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transition between income brackets.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 9. Minnesota Statutes 2002, section 290.091, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the charitable contribution deduction under section 170 of the Internal Revenue Code to the extent that the deduction exceeds 1.3 percent of adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction; and

(iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clause (7);

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, ~~clause~~ clauses (12) and (13).

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Net minimum tax" means the minimum tax imposed by this section.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 10. Minnesota Statutes 2002, section 290.0921, subdivision 3, is amended to read:

Subd. 3. [ALTERNATIVE MINIMUM TAXABLE INCOME.] "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation allowance in the first taxable year after December 31, 2000.

(2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (16), is disallowed in determining alternative minimum taxable income.

(3) The subtraction for depreciation allowed under section 290.01, subdivision 19d, clause (19), is allowed as a depreciation deduction in determining alternative minimum taxable income.

(4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.

(5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

(6) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.

(7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.

(8) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to subparagraph (E) and the subtraction under section 290.01, subdivision 19d, clause (4).

(9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.

(10) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.

(11) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, not previously deducted is a depreciation or amortization allowance in the first taxable year after December 31, 2004.

(12) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

(13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (10), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (11).

(14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 11. Minnesota Statutes 2002, section 290.0922, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] (a) "Minnesota sales or receipts" means the total sales apportioned to Minnesota pursuant to section 290.191, subdivision 5, the total receipts attributed to Minnesota pursuant to section 290.191, subdivisions 6 to 8, and/or the total sales or receipts apportioned or attributed to Minnesota pursuant to any other apportionment formula applicable to the taxpayer.

(b) "Minnesota property" means total Minnesota tangible property as provided in section

290.191, subdivisions 9 to 11, and any other tangible property located in Minnesota, but does not include property located in a job opportunity building zone designated under section 469.314. Intangible property shall not be included in Minnesota property for purposes of this section. Taxpayers who do not utilize tangible property to apportion income shall nevertheless include Minnesota property for purposes of this section. On a return for a short taxable year, the amount of Minnesota property owned, as determined under section 290.191, shall be included in Minnesota property based on a fraction in which the numerator is the number of days in the short taxable year and the denominator is 365.

(c) "Minnesota payrolls" means total Minnesota payrolls as provided in section 290.191, subdivision 12, but does not include job opportunity building zone payrolls under section 468.310, subdivision 8. Taxpayers who do not utilize payrolls to apportion income shall nevertheless include Minnesota payrolls for purposes of this section.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 12. Minnesota Statutes 2002, section 297A.68, is amended by adding a subdivision to read:

Subd. 37. [JOB OPPORTUNITY BUILDING ZONES.] (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.310, are exempt if the property or services are primarily used or consumed in a job opportunity building zone designated under section 469.314.

(b) Purchase and use of construction materials and supplies for construction of improvements to real property in a job opportunity building zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.310. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax regardless of whether the local sales tax is imposed on the sales taxable as defined under this chapter.

(d) This subdivision applies to sales made during the duration of the designation of the zone.

[EFFECTIVE DATE.] This section is effective for sales made on or after the day following final enactment.

Sec. 13. Minnesota Statutes 2002, section 297B.03, is amended to read:

297B.03 [EXEMPTIONS.]

There is specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

(1) purchase or use, including use under a lease purchase agreement or installment sales contract made pursuant to section 465.71, of any motor vehicle by the United States and its agencies and instrumentalities and by any person described in and subject to the conditions provided in section 297A.67, subdivision 11;

(2) purchase or use of any motor vehicle by any person who was a resident of another state or country at the time of the purchase and who subsequently becomes a resident of Minnesota, provided the purchase occurred more than 60 days prior to the date such person began residing in the state of Minnesota and the motor vehicle was registered in the person's name in the other state or country;

(3) purchase or use of any motor vehicle by any person making a valid election to be taxed under the provisions of section 297A.90;

(4) purchase or use of any motor vehicle previously registered in the state of Minnesota when

such transfer constitutes a transfer within the meaning of section 118, 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, 1033, or 1563(a) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

(5) purchase or use of any vehicle owned by a resident of another state and leased to a Minnesota based private or for hire carrier for regular use in the transportation of persons or property in interstate commerce provided the vehicle is titled in the state of the owner or secured party, and that state does not impose a sales tax or sales tax on motor vehicles used in interstate commerce;

(6) purchase or use of a motor vehicle by a private nonprofit or public educational institution for use as an instructional aid in automotive training programs operated by the institution. "Automotive training programs" includes motor vehicle body and mechanical repair courses but does not include driver education programs;

(7) purchase of a motor vehicle for use as an ambulance by an ambulance service licensed under section 144E.10;

(8) purchase of a motor vehicle by or for a public library, as defined in section 134.001, subdivision 2, as a bookmobile or library delivery vehicle;

(9) purchase of a ready-mixed concrete truck;

(10) purchase or use of a motor vehicle by a town for use exclusively for road maintenance, including snowplows and dump trucks, but not including automobiles, vans, or pickup trucks;

(11) purchase or use of a motor vehicle by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, except a public school, university, or library, but only if the vehicle is:

(i) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a passenger automobile, as defined in section 168.011, if the automobile is designed and used for carrying more than nine persons including the driver; and

(ii) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose;

(12) purchase of a motor vehicle for use by a transit provider exclusively to provide transit service is exempt if the transit provider is either (i) receiving financial assistance or reimbursement under section 174.24 or 473.384, or (ii) operating under section 174.29, 473.388, or 473.405;

(13) purchase or use of a motor vehicle by a qualified business, as defined in section 469.310, located in a job opportunity building zone, if the motor vehicle is principally garaged in the job opportunity building zone and is primarily used as part of or in direct support of the person's operations carried on in the job opportunity building zone. The exemption under this clause also applies to any local sales and use tax.

[EFFECTIVE DATE.] This section is effective for sales made after December 31, 2003.

Sec. 14. [469.310] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of sections 469.310 to 469.320, the following terms have the meanings given.

Subd. 2. [AGRICULTURAL PROCESSING FACILITY.] "Agricultural processing facility" means one or more facilities or operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use, and surrounding property.

Subd. 3. [APPLICANT.] "Applicant" means a local government unit or units applying for designation of an area as a job opportunity building zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of trade and economic development.

Subd. 5. [DEVELOPMENT PLAN.] "Development plan" means a plan meeting the requirements of section 469.311.

Subd. 6. [JOB OPPORTUNITY BUILDING ZONE OR ZONE.] "Job opportunity building zone" or "zone" means a zone designated by the commissioner under section 469.314, and includes an agricultural processing facility zone and a mineral processing facility zone.

Subd. 7. [JOB OPPORTUNITY BUILDING ZONE PERCENTAGE OR ZONE PERCENTAGE.] "Job opportunity building zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's job opportunity building zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 8. [JOB OPPORTUNITY BUILDING ZONE PAYROLL FACTOR.] "Job opportunity building zone payroll factor" or "job opportunity building zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed in a job opportunity building zone; or

(2) wages or salaries paid to individuals working from offices within a job opportunity building zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. [LOCAL GOVERNMENT UNIT.] "Local government unit" means a statutory or home rule charter city, county, town, school district, iron range resources and rehabilitation board, or a regional development commission.

Subd. 9a. [MINERAL PROCESSING FACILITY.] "Mineral processing facility" means one or more mining or processing facilities or portions of facilities that produce value added iron products, including, but not limited to, direct reduced iron, hot briquetted iron, iron carbide, pig iron, iron nuggets, steel slabs, billets, blooms, steel, or steel fabricators located adjacent to steel making facilities, excluding taconite iron ore pellet production; or nonferrous mineral mining or processing, including, but not limited to, base metals, precious metals, or high-value industrial minerals such as diamonds, dimension stone, decorative rock, or pigments or facilities for producing more than 1,000,000 yards per year of taconite mining wastes for aggregate.

Subd. 10. [PERSON.] "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. [QUALIFIED BUSINESS.] (a) "Qualified business" means a person carrying on a trade or business at a place of business located within a job opportunity building zone.

(b) A person that relocates a trade or business from outside a job opportunity building zone into a zone is not a qualified business, unless the business:

(1)(i) increases full-time employment in the first full year of operation within the job opportunity building zone by at least 20 percent measured relative to the operations that were relocated; or

(ii) makes a capital investment in the property located within a zone equal to or greater than ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and

(2) enters a binding written agreement with the commissioner that:

(i) pledges the business will meet the requirements of clause (1);

(ii) provides for repayment of all tax benefits enumerated under section 469.315 to the business under the procedures in section 469.319, if the requirements of clause (1) are not met; and

(iii) contains any other terms the commissioner determines appropriate.

A retail business is not a qualified business.

Subd. 12. [RELOCATES.] (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a job opportunity building zone; or

(2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in a job opportunity building zone and its employees in the job opportunity building zone are engaged in the same line of business as the employees at the location where it reduced employment.

(b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.

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

Sec. 15. [469.311] [DEVELOPMENT PLAN.]

(a) An applicant for designation of a job opportunity building zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is designated;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use, industrial site reuse, commercial use, and residential use; and

(6) any other information required by the commissioner.

(c) Notwithstanding paragraph (b), clause (1), an applicant for a jobs opportunity building zone

may, as part of its development plan, reserve for later inclusion in the zone up to 1,000 acres. The later inclusion of area is subject to approval by the commissioner and the area later included must be within the geographic boundaries of the applicants. The original maximum duration of a zone is not changed by later including additional area to the zone. Subject to the maximum area of a zone, there is no limit to the number of times an applicant may propose to include an additional area within a zone from the reserved area proposed in the development plan.

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

Sec. 16. [469.312] [JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.]

Subdivision 1. [MAXIMUM SIZE.] A job opportunity building zone may not exceed 5,000 acres. For a zone designated as an agricultural processing facility zone or a mineral processing facility zone, the zone may not exceed the size of a site necessary for the agricultural or mineral processing facility, including ancillary operations and space for expansion in the reasonably foreseeable future.

Subd. 2. [SUBZONES.] The area of a job opportunity building zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. [OUTSIDE METROPOLITAN AREA.] The area of a job opportunity building zone must be located outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 4. [BORDER CITY DEVELOPMENT ZONES.] (a) The area of a job opportunity building zone may not include the area of a border city development zone designated under section 469.1731. The city may remove property from a border city development zone contingent upon the area being designated as a job opportunity building zone. Before removing a parcel of property from a border city development zone, the city must obtain the written consent to the removal from each recipient that is located on the parcel and receives incentives under the border city development zone. Consent of any other property owner or taxpayer in the border city development zone is not required.

(b) A city may not provide tax incentives under section 469.1734 to individuals or businesses for operations or activity in a job opportunity building zone.

Subd. 5. [DURATION LIMIT.] Tax incentives under section 469.315 may be granted to a qualifying business for no more than 12 consecutive years. The maximum duration of a zone is 24 years, except that a business may not become a qualified business and become eligible to receive incentives at any time after 12 years following the zone's designation. The applicant may request a shorter duration. The commissioner may, at the time of designating a zone, specify a shorter duration, regardless of the requested duration.

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

Sec. 17. [469.313] [APPLICATION FOR DESIGNATION.]

Subdivision 1. [WHO MAY APPLY.] One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a job opportunity building zone. All of the area proposed for designation as a zone must be located within the boundaries of the applicants. A local government unit may not submit or have submitted on its behalf more than one application for designation of a job opportunity building zone.

Subd. 2. [APPLICATION CONTENT.] The application must include:

(1) a development plan meeting the requirements of section 469.311;

(2) the proposed duration of the zone;

(3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;

(4) if the proposed zone includes area in a border city development zone, written consent to removal of the property from the border city development zone to the extent required by section 469.312, subdivision 4; and

(5) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.314.

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

Sec. 18. [469.314] [DESIGNATION OF JOB OPPORTUNITY BUILDING ZONES.]

Subdivision 1. [COMMISSIONER TO DESIGNATE.] (a) The commissioner, in consultation with the commissioner of revenue, shall designate not more than ten job opportunity building zones. In making the designations, the commissioner shall consider need and likelihood of success to yield the most economic development and revitalization of economically distressed rural areas of Minnesota.

(b) In addition to the designations under paragraphs (a) and (c), the commissioner may, in consultation with the commissioners of agriculture and revenue, designate up to five agricultural processing facility zones.

(c) In addition to the designations under paragraphs (a) and (b), the commissioner, in consultation with the commissioner of revenue, may designate up to five mineral processing facility zones.

(d) The commissioner may, upon designation of a zone, modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the job opportunity building zone program. The commissioner shall notify the applicant of the modification and provide a statement of the reasons for the modifications.

Subd. 2. [NEED INDICATORS.] (a) In evaluating applications to determine the need for designation of a job opportunity building zone, the commissioner shall consider the following factors as indicators of need:

(1) the percentage of the population that is below 200 percent of the poverty rate, compared with the state as a whole;

(2) the extent to which the area's average weekly wage is significantly lower than the state average weekly wage;

(3) the amount of property in or near the proposed zone that is deteriorated or underutilized;

(4) the extent to which the median sale price of housing units in the area is below the state median;

(5) the extent to which the median household income of the area is lower than the state median household income;

(6) the extent to which the area experienced a population loss during the 20-year period ending the year before the application is made;

(7) the extent to which an area has experienced sudden or severe job loss as a result of closing of businesses or other employers;

(8) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics;

(9) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development; and

(10) the extent to which the business startup or expansion rates are significantly lower than the respective rate for the state.

(b) In applying the need indicators, the best available data should be used. If reported data are not available for the proposed zone, data for the smallest area that is available and includes the area of the proposed zone may be used. The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. [SUCCESS INDICATORS.] In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(2) whether the development plan is creative and innovative in comparison to other applications;

(3) local public and private commitment to development of the proposed zone and the potential cooperation of surrounding communities;

(4) existing resources available to the proposed zone;

(5) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(6) how the regulatory burden will be eased for businesses operating in the proposed zone;

(7) proposals to establish and link job creation and job training; and

(8) the extent to which the development is directed at encouraging and that designation of the zone is likely to result in the creation of high-paying jobs.

Subd. 4. [DESIGNATION SCHEDULE.] (a) The schedule in paragraphs (b) to (e) applies to the designation of job opportunity building zones.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

Subd. 5. [GEOGRAPHIC DISTRIBUTION OF ZONES.] The commissioner shall have as a goal the geographic distribution of zones around the state.

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

Sec. 19. [469.315] [TAX INCENTIVES AVAILABLE IN ZONES.]

Qualified businesses that operate in a job opportunity building zone, individuals who invest in a qualified business that operates in a job opportunity building zone, and property located in a job opportunity building zone qualify for:

(1) exemption from individual income taxes as provided under section 469.316;

(2) exemption from corporate franchise taxes as provided under section 469.317;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 37;

(4) exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under section 297B.03;

- (5) exemption from the property tax as provided in section 272.02, subdivision 56;
- (6) exemption from the wind energy production tax under section 272.029, subdivision 7; and
- (7) the jobs credit allowed under section 469.318.

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

Sec. 20. [469.316] [INDIVIDUAL INCOME TAX EXEMPTION.]

Subdivision 1. [APPLICATION.] An individual operating a qualified business in a job opportunity building zone, and an individual making a qualifying investment in a qualified business operating in a job opportunity building zone qualifies for the exemptions from taxes imposed under chapter 290, as provided in this section. The exemptions provided under this section apply only to the extent that the income otherwise would be taxable under chapter 290. Subtractions under this section from federal taxable income, alternative minimum taxable income, or any other base subject to tax are limited to the amount that otherwise would be included in the tax base absent the exemption under this section.

Subd. 2. [RENTS.] An individual is exempt from the taxes imposed under chapter 290 on net rents derived from real or tangible personal property located in a zone for a taxable year in which the zone was designated a job opportunity building zone. If tangible personal property was used both within and outside of the zone, the exemption amount for the net rental income must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone and the denominator of which is the total days.

Subd. 3. [BUSINESS INCOME.] An individual is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in a job opportunity building zone. If the trade or business is carried on within and without the zone and the individual is not a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year. If the trade or business is carried on within and without the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year, except the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the business.

Subd. 4. [CAPITAL GAINS.] (a) An individual is exempt from the taxes imposed under chapter 290 on:

(1) net gain derived on a sale or exchange of real property located in the zone. If the property was held by the individual during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the real property was held by the individual during the period the zone designation was in effect to the total period of time the real property was held by the individual;

(2) net gain derived on a sale or exchange of tangible personal property used by a qualified business in the zone. If the property was held by the individual during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the property was held by the individual during the period the zone designation was in effect to the total period of time the property was held by the individual. If the tangible personal property was used outside of the zone during the period of the zone's designation, the exemption must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone during the time of the designation and the denominator of which is the total days the property was held during the time of the designation; and

(3) net gain derived on a sale of an ownership interest in a qualified business operating in the job opportunity building zone, meeting the requirements of paragraph (b). The exemption on the gain must be multiplied by the zone percentage of the business for the taxable year prior to the sale.

(b) A qualified business meets the requirements of paragraph (a), clause (3), if it is a corporation, an S corporation, or a partnership, and for the taxable year its job opportunity building zone percentage exceeds 25 percent. For purposes of paragraph (a), clause (3), the zone percentage must be calculated by modifying the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors determined under section 290.191. Upon the request of an individual holding an ownership interest in the entity, the entity must certify to the owner, in writing, the job opportunity building zone percentage needed to determine the exemption.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 21. [469.317] [CORPORATE FRANCHISE TAX EXEMPTION.]

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations within the zone. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and subtracting the result in determining taxable income;

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the corporation.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

Sec. 22. [469.318] [JOBS CREDIT.]

Subdivision 1. [CREDIT ALLOWED.] A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) \$30,000 multiplied by (the number of full-time equivalent employee positions that the qualified business employs in the job opportunity building zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero).

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.

(b) "Base year" means the taxable year beginning during the calendar year in which the commissioner designated the zone.

(c) "Full-time equivalent employee position" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section

290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business.

Subd. 3. [INFLATION ADJUSTMENT.] For taxable years beginning after December 31, 2004, the dollar amount in subdivision 1, clause (2), is annually adjusted for inflation. The commissioner of revenue shall adjust the amount by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. [REFUNDABLE.] If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. [APPROPRIATION.] An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

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

Sec. 23. [469.319] [REPAYMENT OF TAX BENEFITS.]

Subdivision 1. [REPAYMENT OBLIGATION.] A business must repay the amount of the tax reduction received during the two years immediately before it ceased to operate in the zone, if the business:

- (1) received tax reductions authorized by section 469.315;
- (2) relocated into a job opportunity building zone after designation of the zone; and
- (3) ceased to operate its facility located within the job opportunity building zone or otherwise ceases to be or is not a qualified business.

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.

- (b) "Business" means any person who received tax benefits enumerated in section 469.315.
- (c) "Commissioner" means the commissioner of revenue.

Subd. 3. [DISPOSITION OR REPAYMENT.] The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the city or county imposing the local sales tax.

Subd. 4. [REPAYMENT PROCEDURES.] (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to do business in the zone. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.315.

(b) For the repayment of taxes imposed under chapter 297B, a business must pay any taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner of revenue, within 30 days after ceasing to do business in the zone.

(c) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement.

(d) The provisions of chapters 270 and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment required under paragraphs (a) and (b). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270.75, from 30 days after ceasing to do business in the job opportunity building zone until the date the tax is paid.

(e) If a property tax is not repaid under paragraph (c), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the business ceased to operate in the job opportunity building zone.

(f) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the taxpayer had not been entitled to the exemption.

(g) The commissioner may assess the repayment of taxes under paragraph (d) any time within two years after the business ceases to operate in the job opportunity building zone, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later.

Subd. 5. [WAIVER AUTHORITY.] The commissioner may waive all or part of a repayment, if the commissioner, in consultation with the commissioner of trade and economic development and appropriate officials from the local government units in which the qualified business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a result of circumstances beyond its control including, but not limited to:

- (1) a natural disaster;
- (2) unforeseen industry trends; or
- (3) loss of a major supplier or customer.

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

Sec. 24. [469.320] [ZONE PERFORMANCE; REMEDIES.]

Subdivision 1. [REPORTING REQUIREMENT.] An applicant receiving designation of a job opportunity building zone under section 469.314 must annually report to the commissioner on its progress in meeting the zone performance goals under the development plan for the zone.

Subd. 2. [PROCEDURES.] For reports required by subdivision 1, the commissioner may prescribe:

- (1) the required time or times by which the reports must be filed;
- (2) the form of the report; and
- (3) the information required to be included in the report.

Subd. 3. [REMEDIES.] If the commissioner determines, based on a report filed under subdivision 1 or other available information, that a zone or subzone is failing to meet its performance goals, the commissioner may take any actions the commissioner determines appropriate, including modification of the boundaries of the zone or a subzone or termination of the zone or a subzone. Before taking any action, the commissioner shall consult with the applicant and the affected local government units, including notifying them of the proposed actions to be taken. The commissioner shall publish any order modifying a zone in the State Register and on the Internet. The applicant may appeal the commissioner's order under the contested case procedures of chapter 14.

Subd. 4. [EXISTING BUSINESSES.] An action to remove area from a zone or to terminate a zone under this section does not apply to:

(1) the property tax on improvements constructed before the first January 2 following publication of the commissioner's order;

(2) sales tax on purchases made before the first day of the next calendar month beginning at least 30 days after publication of the commissioner's order; and

(3) individual income tax or corporate franchise tax attributable to a facility that was in operation before the publication of the commissioner's order.

Sec. 25. [477A.08] [JOB OPPORTUNITY BUILDING ZONE AID.]

Subdivision 1. [ELIGIBILITY.] (a) For each assessment year that the exemption for job opportunity building zone property is in effect under section 272.02, subdivision 56, the assessor shall determine the difference between the actual net tax capacity and the net tax capacity that would be determined for the job opportunity building zone if the exemption were not in effect.

(b) Each city and county is eligible for aid equal to one-half of:

(1) the amount by which the sum of the differences determined in paragraph (a) for the corresponding assessment year exceeds three percent of the city's or county's total taxable net tax capacity for taxes payable in 2003, multiplied by

(2) the city's or the county's, as applicable, average local tax rate for taxes payable in 2003.

Subd. 2. [CERTIFICATION.] The county assessor shall notify the commissioner of revenue of the amount determined under subdivision 1, paragraph (b), clause (1), for any city or county that qualifies for aid under this section by June 30 of the assessment year, in a form prescribed by the commissioner. The commissioner shall notify each city and county of its qualifying aid amount by August 15 of the assessment year.

Subd. 3. [APPROPRIATION; PAYMENT.] The commissioner shall pay each city and county its qualifying aid amount by July 20 of the following year. An amount sufficient to pay the aid under this section is appropriated to the commissioner of revenue from the general fund.

[EFFECTIVE DATE.] This section is effective beginning for aid based on property taxes assessed in 2004, payable in 2005.

Sec. 26. [APPROPRIATION; COST OF ADMINISTRATION.]

\$100,000 in fiscal year 2004 and \$30,000 in fiscal year 2005 are appropriated to the commissioner of trade and economic development for the cost of designating job opportunity building zones.

\$53,000 in fiscal year 2004 and \$29,000 in fiscal year 2005 are appropriated to the commissioner of revenue for the cost of administering the tax provisions of this act.

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

Delete the title and insert:

"A bill for an act relating to economic development; authorizing the establishing of job opportunity building zones; providing tax exemptions for individuals and business entities in the zones; providing for repayment of tax benefits under certain circumstances; providing for the payment of state aid; appropriating money; amending Minnesota Statutes 2002, sections 272.02, by adding a subdivision; 272.029, by adding a subdivision; 290.01, subdivisions 19b, 29; 290.06, subdivision 2c, by adding a subdivision; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivision 3; 297A.68, by adding a subdivision; 297B.03; proposing coding for new law in Minnesota Statutes, chapters 469; 477A."

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

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

S.F. No. 823: A bill for an act relating to criminal procedure; providing that government units are not required to pay defendants' attorney fees for certain appeals; proposing coding for new law as Minnesota Statutes, chapter 545A.

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

Page 1, line 12, after "defendant" insert "when the government unit prevails"

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

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

S.F. No. 568: A bill for an act relating to government data practices; providing for classification of certain data; amending Minnesota Statutes 2002, section 13.643, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 13.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1
GOVERNMENT DATA

Section 1. Minnesota Statutes 2002, section 13.08, subdivision 4, is amended to read:

Subd. 4. [ACTION TO COMPEL COMPLIANCE.] (a) In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person seeking to enforce the person's rights under this chapter or obtain access to data may bring an action in district court to compel compliance with this chapter and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. If the court issues an order to compel compliance under this subdivision, the court may impose a civil penalty of up to \$300 against the government entity. This penalty is payable to the state general fund and is in addition to damages under subdivision 1. The matter shall be heard as soon as possible. In an action involving a request for government data under section 13.03 or 13.04, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public. If the court issues an order to compel compliance under this subdivision, the court shall forward a copy of the order to the commissioner of administration.

(b) In determining whether to assess a civil penalty under this subdivision, the court shall consider whether the government entity has substantially complied with general data practices under this chapter, including but not limited to, whether the government entity has:

- (1) designated a responsible authority under section 13.02, subdivision 16;
- (2) designated a data practices compliance official under section 13.05, subdivision 13;
- (3) prepared the public document that names the responsible authority and describes the records and data on individuals that are maintained by the government entity under section 13.05, subdivision 1;
- (4) developed public access procedures under section 13.03, subdivision 2; procedures to guarantee the rights of data subjects under section 13.05, subdivision 8; and procedures to ensure that data on individuals are accurate and complete and to safeguard the data's security under section 13.05, subdivision 5;

(5) sought an oral, written, or electronic opinion from the commissioner of administration related to the matter at issue and acted in conformity with that opinion or acted in conformity with an opinion issued under section 13.072 that was sought by another person; or

(6) provided ongoing training to government entity personnel who respond to requests under this chapter.

(c) The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this subdivision if the government entity that is the defendant in the action was the subject of a written opinion issued under section 13.072 and did not act in conformity with the opinion.

Sec. 2. [13.15] [COMPUTER DATA.]

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given.

(a) [ELECTRONIC ACCESS DATA.] "Electronic access data" means data created, collected, or maintained about a person's access to a government entity's computer for the purpose of:

- (1) gaining access to data or information;
- (2) transferring data or information; or
- (3) using government services.

(b) [COOKIE.] "Cookie" means any data that a government-operated computer electronically places on the computer of a person who has gained access to a government computer.

Subd. 2. [CLASSIFICATION OF DATA.] Electronic access data are private data on individuals or nonpublic data.

Subd. 3. [NOTICE.] A government entity that creates, collects, or maintains electronic access data or uses its computer to install a cookie on a person's computer must inform persons gaining access to the entity's computer of the creation, collection, or maintenance of electronic access data or the entity's use of cookies before requiring the person to provide any data about the person to the government entity. As part of that notice, the government entity must inform the person how the data will be used and disseminated, including the uses and disseminations in subdivision 4.

Subd. 4. [USE OF ELECTRONIC ACCESS DATA.] Electronic access data may be disseminated:

- (1) to the commissioner for the purpose of evaluating electronic government services;
- (2) to another government entity to prevent unlawful intrusions into government electronic systems; or
- (3) as otherwise provided by law.

Sec. 3. Minnesota Statutes 2002, section 13.32, is amended by adding a subdivision to read:

Subd. 4a. [NONPUBLIC SCHOOL STUDENTS.] Data collected by a public school on a child, or parents of a child, whose identity must be reported pursuant to section 120A.24 is private data which:

(1) shall not be designated directory information pursuant to subdivision 5 unless prior written consent is given by the child's parent or guardian; and

(2) may be disclosed only pursuant to subdivision 3, clause (a), (b), (c), or (f). This provision does not apply to students who receive shared-time educational services from a public agency or institution.

Sec. 4. [13.3215] [UNIVERSITY OF MINNESOTA DATA.]

Claims experience and all related information received from carriers and claims administrators participating in a University of Minnesota group health, dental, life, or disability insurance plan or the University of Minnesota workers' compensation program, and survey information collected from employees or students participating in these plans and programs, are nonpublic data. The University of Minnesota may release the data described in this section if it determines that the release will not be detrimental to the plan or program.

Sec. 5. Minnesota Statutes 2002, section 13.37, subdivision 3, is amended to read:

Subd. 3. [DATA DISSEMINATION.] Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs. The location of a National Night Out event is public data.

Sec. 6. Minnesota Statutes 2002, section 13.46, subdivision 7, is amended to read:

Subd. 7. [MENTAL HEALTH CENTER DATA.] (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(2) pursuant to court order;

(3) pursuant to a paragraph (c) or another statute specifically authorizing access to or disclosure of mental health data; or

(4) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

(c) County mental health services may share mental health data with a police department crisis intervention team to determine whether an individual that has been apprehended is a client of the county and if so, the individual's physician, therapist, or case manager.

Sec. 7. [13.468] [DATA SHARING WITHIN COUNTIES.]

County welfare, human services, corrections, public health, and veterans service units of a county may inform each other as to whether an individual or family currently is being served by the county unit, without the consent of the subject of the data. Data that may be shared are limited to the following: the name, telephone number, and last known address of the data subject; and the identification and contact information regarding personnel of the county unit responsible for working with the individual or family. If further information is necessary for the county unit to carry out its duties, each county unit may share additional data if the unit is authorized by state statute or federal law to do so or the individual gives written, informed consent.

Sec. 8. Minnesota Statutes 2002, section 13.643, is amended by adding a subdivision to read:

Subd. 5. [DATA RECEIVED FROM FEDERAL GOVERNMENT.] All data received by the department of agriculture from the United States Department of Health and Human Services, the Food and Drug Administration, and the Agriculture, Food Safety, and Inspection Service for the purpose of carrying out the department of agriculture's statutory food safety regulatory and enforcement duties are classified as nonpublic data under section 13.02, subdivision 9, and private data on individuals under section 13.02, subdivision 12.

Sec. 9. Minnesota Statutes 2002, section 13.746, subdivision 3, is amended to read:

Subd. 3. [STATE LOTTERY.] (a) [ACCESS TO CRIMINAL DATA.] The state lottery director's access to criminal history data on certain persons is governed by sections 349A.06, subdivision 4, and 349A.07, subdivision 2.

(b) [LOTTERY PRIZE WINNERS.] Certain data on lottery prize winners are classified under section 349A.08, subdivision 9.

(c) [DIRECT MARKETING.] Data on individuals given to the lottery for direct marketing purposes are classified in section 349A.08, subdivision 9.

Sec. 10. Minnesota Statutes 2002, section 16C.06, is amended by adding a subdivision to read:

Subd. 3a. [INFORMATION IN BIDS AND PROPOSALS.] Data relating to bids and proposals are governed by section 13.591.

Sec. 11. Minnesota Statutes 2002, section 16C.10, subdivision 7, is amended to read:

Subd. 7. [REVERSE AUCTION.] (a) For the purpose of this subdivision, "reverse auction" means a purchasing process in which vendors compete to provide goods at the lowest selling price in an open and interactive environment.

(b) The provisions of ~~section~~ sections 13.591, subdivision 3, and 16C.06, ~~subdivisions~~ subdivision 2 and 3, do not apply when the commissioner determines that a reverse auction is the appropriate purchasing process.

Sec. 12. Minnesota Statutes 2002, section 144.335, is amended by adding a subdivision to read:

Subd. 3d. [RELEASE OF RECORDS TO COUNTY LOCAL WELFARE AGENCY.] If a provider has been notified by a county local welfare agency under section 626.556, subdivision 3d, the provider must report to the agency the birth of a child to that individual within 24 hours of the birth.

Sec. 13. Minnesota Statutes 2002, section 268.19, is amended by adding a subdivision to read:

Subd. 1a. [WAGE DETAIL DATA.] (a) Wage and employment data gathered pursuant to section 268.044 may be disseminated to and used, without the consent of the subject of the data, by an agency of another state that is designated as the performance accountability and consumer information agency for that state pursuant to Code of Federal Regulations, volume 20, part 663.510(c), in order to carry out the requirements of the Workforce Investment Act of 1998, United States Code, title 29, sections 2842 and 2871.

(b) The commissioner may enter into a data exchange agreement with an employment and training service provider under section 116L.17, or the Workforce Investment Act of 1998, United States Code, title 29, section 2864, under which the commissioner, with the consent of the subject of the data, may furnish data on the quarterly wages paid and number of hours worked on those individuals who have received employment and training services from the provider. With the initial consent of the subject of the data, this data may be shared for up to three years after termination of the employment and training services provided to the individual without execution of an additional consent. This data shall be furnished solely for the purpose of evaluating the employment and training services provided.

Sec. 14. Minnesota Statutes 2002, section 307.08, is amended by adding a subdivision to read:

Subd. 11. [BURIAL SITES DATA.] Burial sites locational and related data maintained by the office of the state archaeologist and accessible through the office's "Unplatted Burial Sites and Earthworks in Minnesota" Web site are security information for purposes of section 13.37. Persons who gain access to the data maintained on the site are subject to liability under section 13.08 and the penalty established by section 13.09 if they improperly use or further disseminate the data.

Sec. 15. Minnesota Statutes 2002, section 349A.08, subdivision 9, is amended to read:

Subd. 9. [PRIVACY.] (a) The phone number and street address of a winner of a lottery prize is private data on individuals under chapter 13.

(b) Data on an individual, including name, physical and electronic address, and telephone number, that are given to the lottery for direct marketing purposes are private data on individuals as defined in section 13.02.

Sec. 16. Minnesota Statutes 2002, section 626.556, is amended by adding a subdivision to read:

Subd. 3d. [REPORT TO PROTECT SAFETY OF AT-RISK NEWBORNS.] If a county local welfare agency determines that a child born to an individual would be subjected to a threatened injury while in the care of that individual, the agency may disclose private data on the individual to providers for the purpose of requesting notification of the birth of a child to the individual. For purposes of this subdivision, "provider" has the meaning given in section 144.335, subdivision 1.

Sec. 17. Minnesota Statutes 2002, section 626.557, subdivision 9a, is amended to read:

Subd. 9a. [EVALUATION AND REFERRAL OF REPORTS MADE TO A COMMON ENTRY POINT UNIT.] The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) if the report references alleged or suspected maltreatment and there is no immediate need for adult protective services, the common entry point shall notify the appropriate lead agency as soon as possible, but in any event no longer than two working days;

(4) if the report does not reference alleged or suspected maltreatment, the common entry point may determine whether the information will be referred; and

(5) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law.

Sec. 18. [REPEALER.]

Minnesota Statutes 2002, section 13.6401, subdivision 4; Laws 2001, First Special Session chapter 10, article 2, section 40, are repealed.

Sec. 19. [EFFECTIVE DATE.]

Sections 9 and 15 are effective the day following final enactment.

ARTICLE 2

FINANCIAL PRIVACY

Section 1. [13E.01] [DEFINITIONS.]

For purposes of this chapter, the terms "consumer," "financial institution," "nonaffiliated third party," "nonpublic personal information," and "joint agreement" have the meanings given in section 509 of the Gramm-Leach-Bliley Financial Services Modernization Act, codified as United States Code, title 15, section 6809, including any federal regulations implementing that section.

Sec. 2. [13E.02] [PRIVACY OF FINANCIAL DATA.]

Except as required by sections 13E.03 to 13E.05, which afford greater protection to consumers, every financial institution doing business in this state shall comply with sections 502 and 503 of

the Gramm-Leach-Bliley Financial Services Modernization Act, codified as United States Code, title 15, sections 6802 and 6803 respectively, including any federal regulations issued under authority of section 504 of the act, codified as United States Code, title 15, section 6804.

Sec. 3. [13E.03] [DUTY OF CONFIDENTIALITY.]

A financial institution doing business in this state shall not disclose nonpublic personal information about a consumer to any nonaffiliated third party unless the disclosure is made in accordance with any of the following:

- (1) pursuant to affirmative consent granted by the consumer in accordance with this chapter;
- (2) pursuant to the exception in section 502(b)(2) of the Gramm-Leach-Bliley Financial Services Modernization Act, codified as United States Code, title 15, section 6802(b)(2), including any federal regulations issued to implement that section; or
- (3) pursuant to an exception in section 502(e) of the Gramm-Leach-Bliley Financial Services Modernization Act, codified as United States Code, title 15, section 6802(e), including any federal regulations issued to implement that section.

Sec. 4. [13E.04] [AFFIRMATIVE CONSENT.]

Subdivision 1. [USE.] Affirmative consent must not be required as a condition of doing business with any financial institution. Any affirmative consent obtained from a consumer as a condition of doing business with a financial institution shall not be effective for purposes of this chapter.

Subd. 2. [FORM.] Affirmative consent as required by this chapter must be in writing and signed by the consumer. The affirmative consent form signed by the consumer must be contained on a separate page that also clearly and conspicuously discloses the following:

- (1) the time during which the consent will operate, which must not be longer than five years;
- (2) each category of nonpublic personal information to be disclosed, including, but not limited to, the consumer's social security number, account numbers, account balances, credit limits, the amount or date of any transaction, the identity of persons to whom the consumer's checks are made payable, and the identity of merchants or other persons honoring the consumer's credit cards; and
- (3) the type of nonaffiliated third parties to whom disclosure may be made.

Sec. 5. [13E.05] [ACCESS TO AND CORRECTION OF NONPUBLIC PERSONAL INFORMATION.]

Subdivision 1. [ACCESS AND CORRECTION.] If a consumer submits a written request to a financial institution for access to nonpublic personal information held by the financial institution about the consumer, within 30 business days from the date the request is received, the financial institution shall:

- (1) provide to the consumer in person, by regular mail, or by electronic mail a copy of all such nonpublic personal information, or a reasonably described portion of the information, whichever the consumer requests; and
- (2) provide to the consumer a summary of the procedures by which the consumer may request correction, amendment, or deletion of nonpublic personal information.

If any nonpublic personal information is in coded or electronic form, an accurate translation in hard copy must be provided.

Subd. 2. [REASONABLE FEE.] A financial institution may charge a reasonable fee to copy nonpublic personal information provided under this section, provided the fee is clearly and conspicuously disclosed to the consumer. A financial institution may not charge for inspection of nonpublic personal information by the consumer.

Sec. 6. [13E.06] [REMEDIES.]

The attorney general may seek the remedies set forth in section 8.31, subdivision 3, against any financial institution in violation of this chapter.

Sec. 7. [13E.07] [OTHER LAW.]

This chapter does not limit any rights or remedies protecting the privacy of information that are available under other law.

Sec. 8. [EFFECTIVE DATE.]

This article is effective July 1, 2004."

Delete the title and insert:

"A bill for an act relating to data practices; providing for the classification of, access to, and sharing of certain data; providing for an award of attorney fees when a government entity does not act in compliance with a commissioner's opinion; clarifying classification of data relating to bids and proposals; requiring notices regarding computer access to data; clarifying provisions dealing with certain data on nonpublic school students; codifying temporary classifications; classifying data on the location of a National Night Out event; authorizing human services and mental health data sharing; classifying certain data received from the federal government; classifying data received by the state lottery for marketing purposes; allowing the sharing of data for programs under the department of economic security; providing for the privacy of financial records; requiring consumer consent for the release of certain records; amending Minnesota Statutes 2002, sections 13.08, subdivision 4; 13.32, by adding a subdivision; 13.37, subdivision 3; 13.46, subdivision 7; 13.643, by adding a subdivision; 13.746, subdivision 3; 16C.06, by adding a subdivision; 16C.10, subdivision 7; 144.335, by adding a subdivision; 268.19, by adding a subdivision; 307.08, by adding a subdivision; 349A.08, subdivision 9; 626.556, by adding a subdivision; 626.557, subdivision 9a; proposing coding for new law in Minnesota Statutes, chapter 13; proposing coding for new law as Minnesota Statutes, chapter 13E; repealing Minnesota Statutes 2002, section 13.6401, subdivision 4; Laws 2001, First Special Session chapter 10, article 2, section 40."

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

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

S.F. No. 1296: A bill for an act relating to corrections; authorizing certain commitments to the commissioner of corrections to be served in local correctional facilities; requiring the commissioner to issue a request for proposals to provide facilities for persons committed to the commissioner; amending Minnesota Statutes 2002, section 609.105, subdivision 1, by adding subdivisions; repealing Laws 2002, chapter 220, article 6, section 6.

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

Pages 2 and 3, delete section 4 and insert:

"Sec. 4. [REQUEST FOR PROPOSALS AUTHORIZED; SHORT-TERM OFFENDERS.]

(a) The commissioner of corrections, in consultation with the commissioner of administration, may issue a request for proposals by September 1, 2003, for operators, including the department of corrections, to provide correctional facility or facilities, for persons committed to the commissioner of corrections on or after July 1, 2006, for the care, custody, and programming for state housed offenders with remaining term of imprisonment of less than 365 days.

(b) The commissioner may not accept any proposal received under paragraph (a) unless specifically directed to do so by law."

Page 3, delete line 3 and insert:

"Sec. 5. [REPORT TO LEGISLATURE ON PROPOSALS RECEIVED.]"

Amend the title as follows:

Page 1, line 4, delete "requiring" and insert "authorizing"

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

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

S.F. No. 1123: A bill for an act relating to corrections; requiring a biennial performance report from the department of corrections; amending Minnesota Statutes 2002, section 241.016, subdivision 1.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

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

S.F. No. 722: A bill for an act relating to civil actions; providing immunity for good faith reports to or requests for assistance from law enforcement; proposing coding for new law in Minnesota Statutes, chapter 604A.

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

Page 1, line 14, after "individual" insert "reasonable" and after the period, insert "This section does not exempt individuals from their professional obligations of confidentiality."

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

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

S.F. No. 717: A bill for an act relating to agriculture; modifying certain restrictions on the ownership of farm land; imposing a penalty; amending Minnesota Statutes 2002, section 500.221, subdivisions 1, 1a, 5.

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

Page 1, line 22, delete everything after "holder"

Page 1, line 23, delete "on the European continent"

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

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

S.F. No. 814: A bill for an act relating to parentage; modifying provisions regarding parentage of a child conceived through artificial insemination; amending Minnesota Statutes 2002, section 257.56.

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

Page 2, after line 15, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment and applies to any egg donation made before, on, or after the effective date of this act."

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

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

S.F. No. 634: A bill for an act relating to mental health; clarifying that persons who qualify as voluntary patients for treatment of a mental illness are not subject to civil commitment; amending Minnesota Statutes 2002, section 253B.04, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. [VOLUNTARY ADMISSION AND TREATMENT.] (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (1) the proposed patient has a mental illness, or is mentally retarded or chemically dependent; and (2) the proposed patient is suitable for treatment. The head of the treatment facility shall not arbitrarily refuse any person seeking admission as a voluntary patient. In making decisions regarding admissions, the facility shall use clinical admission criteria consistent with the current applicable inpatient admission standards established by the American Psychiatric Association or the American Academy of Child and Adolescent Psychiatry. These criteria must be no more restrictive than, and must be consistent with, the requirements of section 62Q.53. The facility may not refuse to admit a person voluntarily solely because the person does not meet the criteria for involuntary holds under section 253B.05 or the definition of mental illness under section 253B.02, subdivision 13.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for mental illness or chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. The person conducting the examination shall notify the proposed patient and the parent or legal guardian of this determination.

(c) A person who is voluntarily participating in treatment for a mental illness is not subject to civil commitment under this chapter if the person:

(1) has given informed consent or, if lacking capacity, is a person for whom legally valid substitute consent has been given; and

(2) is presently participating in a medically appropriate course of treatment, including clinically appropriate and legal use of neuroleptic medication and electroconvulsive therapy.

Notwithstanding this paragraph, the court may commit the person if the court finds that, based on the person's actions in the past year, it is unlikely the person will continue to actively participate in treatment absent commitment. This paragraph does not apply to a person for whom commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the Rules of Criminal Procedure, or a person found by the court to meet the requirements under section 253B.02, subdivision 17.

Legally valid substitute consent may be provided by a proxy under a health care directive, a guardian or conservator with authority to consent to mental health treatment, or consent to admission under subdivision 1a or 1b.

Sec. 2. Minnesota Statutes 2002, section 253B.05, subdivision 3, is amended to read:

Subd. 3. [DURATION OF HOLD.] (a) Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays after admission. If a petition for the commitment of the person is filed in the district court in the county of the person's residence or of the county in which the treatment facility is located, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(b) During the 72-hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall direct the release and shall issue written findings supporting the decision. The release may not be delayed pending the written order. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to:

- (1) any specific individuals identified in a statement under subdivision 1 or 2 or individuals identified in the record who might be endangered if the person was not held;
- (2) the examiner whose written statement was a basis for a hold under subdivision 1; and
- (3) the peace or health officer who applied for a hold under subdivision 2.

(c) If a treatment facility releases a person during the 72-hour hold period, the head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section.

(d) A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive emergency hold order under this section may not be issued."

Delete the title and insert:

"A bill for an act relating to mental health; clarifying that persons who are voluntary patients for treatment of a mental illness are not subject to civil commitment; prohibiting consecutive emergency hold orders; amending Minnesota Statutes 2002, sections 253B.04, subdivision 1; 253B.05, subdivision 3."

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

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

S.F. No. 1185: A bill for an act relating to veterans affairs; providing authority to the Department of Veterans Affairs to access certain state databases to verify eligibility; amending Minnesota Statutes 2002, section 13.461, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 197.

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

Page 1, line 19, delete ", as"

Page 1, line 20, delete everything before the period

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

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

S.F. No. 1062: A bill for an act relating to local government; providing an exception to the priorities for designating a qualified newspaper; amending Minnesota Statutes 2002, section 331A.04, by adding a subdivision.

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

Page 1, line 21, delete "and" and insert:

"(3) the newspaper has provided regular coverage of the proceedings of the governing body of the local public corporation and will continue to do so; and"

Page 1, line 22, delete "(3)" and insert "(4)"

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

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

S.F. No. 910: A bill for an act relating to state government; putting a limit on the amount to be spent on art in state-financed buildings; amending Minnesota Statutes 2002, section 16B.35, subdivision 1.

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

Page 1, line 19, after the period, insert "No more than ten percent of the total amount available each fiscal year under this subdivision may be used for administrative expenses, either by the commissioner of administration or by any other entity to whom the commissioner delegates administrative authority."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "limiting administrative expenses;"

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

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

S.F. No. 1211: A bill for an act relating to education; establishing the on-line learning program; defining student eligibility; establishing on-line course revenue; requiring the commissioner of children, families, and learning to review and certify districts offering on-line courses; appropriating money; amending Minnesota Statutes 2002, section 126C.19, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 125B.

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 2002, section 120A.05, subdivision 11, is amended to read:

Subd. 11. [MIDDLE SCHOOL.] "Middle school" means any school other than a secondary school giving an approved course of study in a minimum of ~~three~~ two consecutive grades above 4th but below 10th with building, equipment, courses of study, class schedules, enrollment, and staff meeting the standards established by the commissioner of children, families, and learning.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 2. Minnesota Statutes 2002, section 120A.41, is amended to read:

120A.41 [LENGTH OF SCHOOL YEAR; DAYS OF INSTRUCTION.]

A school board's annual school calendar must include at least ~~three additional days of student~~

instruction or staff development training related to implementing section 120B.031, subdivision 1, paragraph (f), beyond the number of days of student instruction the board formally adopted as its school calendar at the beginning of the 1996-1997 school year.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year.

Sec. 3. Minnesota Statutes 2002, section 121A.23, is amended to read:

121A.23 [PROGRAMS TO PREVENT AND REDUCE THE RISKS OF SEXUALLY TRANSMITTED INFECTIONS AND DISEASES.]

Subdivision 1. **[SEXUALLY TRANSMITTED DISEASES INFECTION PROGRAM.]** The commissioner of children, families, and learning, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including, but not exclusive limited to, human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

- (1) planning materials, guidelines, and other technically accurate and updated information;
- (2) a comprehensive, technically accurate, and updated curriculum that includes emphasizes, but is not limited to, helping students to abstain from sexual activity until marriage;
- (3) cooperation and coordination among districts and SCs;
- (4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;
- (5) involvement of parents and other community members;
- (6) in-service training for appropriate district staff and school board members;
- (7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
- (8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and
- (9) participation by state and local student organizations.

The department may provide assistance at a neutral site to a nonpublic school participating in a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.

If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.

Subd. 2. **[FUNDING SOURCES.]** Districts may accept funds for sexually transmitted infection and disease prevention programs developed and implemented under this section from public and private sources including public health funds and foundations, department professional development funds, federal block grants or other federal or state grants.

Sec. 4. Minnesota Statutes 2002, section 122A.18, subdivision 7a, is amended to read:

Subd. 7a. **[PERMISSION TO SUBSTITUTE TEACH.]** (a) The board of teaching may allow a person who is enrolled in and making satisfactory progress in a board-approved teacher program and who has successfully completed student teaching to be employed as a short-call substitute teacher.

(b) The board of teaching may issue a lifetime qualified short-call substitute teaching license to a person who:

(1) was a qualified teacher under section 122A.16 while holding a continuing five-year teaching license issued by the board, and receives a retirement annuity from the teachers retirement association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, or the Duluth teachers retirement fund association;

(2) holds an out-of-state teaching license and receives a retirement annuity as a result of the person's teaching experience; or

(3) held a continuing five-year license issued by the board, taught at least three school years in an accredited nonpublic school in Minnesota, and receives a retirement annuity as a result of the person's teaching experience.

A person holding a lifetime qualified short-call substitute teaching license is not required to complete continuing education clock hours. A person holding this license may reapply to the board for a continuing five-year license and must again complete continuing education clock hours one school year after receiving the continuing five-year license.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year.

Sec. 5. Minnesota Statutes 2002, section 122A.22, is amended to read:

122A.22 [DISTRICT RECORDING VERIFICATION OF TEACHER LICENSES.]

No person shall be accounted a qualified teacher until the person has filed for record with the district superintendent where the person intends to teach a license, or certified copy of a license, authorizing the person to teach school in the district school system school district or charter school contracting with the person for teaching services verifies through the Minnesota education licensing system available on the department Web site that person is a qualified teacher, consistent with sections 122A.16 and 122A.44, subdivision 1.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 6. Minnesota Statutes 2002, section 122A.40, subdivision 5, is amended to read:

Subd. 5. [PROBATIONARY PERIOD.] (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and after completion thereof, the probationary period in each district in which the teacher is thereafter employed shall be one year. The school board must adopt a plan for written evaluation of teachers during the probationary period. Evaluation must occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. The evaluation must be conducted during the school year with at least one evaluation completed by March 1 if the teacher is performing services in excess of 120 days in that school year. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, failure to provide the evaluation required by March 1 under this section will result in the automatic extension of that teacher's probationary period for one year, unless the school board decides not to renew the teacher's contract because of financial limitations of the district. An additional failure to provide the March 1 evaluation results in the automatic renewal of that teacher's contract, unless the school board decides not to renew the teacher's contract because of financial limitations in the district. The board must give any such teacher whose contract it declines to renew for the following school year written notice to that effect before July 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the board must give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board, within ten days after receiving such request. The school board may, after a hearing held upon due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 122A.44.

(b) A board must discharge a probationary teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

Sec. 7. Minnesota Statutes 2002, section 122A.413, is amended to read:

122A.413 [EDUCATIONAL IMPROVEMENT PLAN.]

Subdivision 1. [QUALIFYING PLAN.] A district may develop an educational improvement plan for the purpose of qualifying for ~~alternative teacher compensation~~ principled pay practices aid under ~~sections 122A.414 and 122A.415~~ section 122A.4142. The plan must include measures for improving school district, school site, teacher, and individual student performance.

Subd. 2. [PLAN COMPONENTS.] The educational improvement plan must be approved by the school board and have at least these elements:

- (1) assessment and evaluation tools to measure student performance and progress;
- (2) performance goals and benchmarks for improvement;
- (3) measures of student attendance and completion rates;
- (4) a rigorous professional development system, consistent with section 122A.60, that is aligned with educational improvement, designed to achieve teaching quality improvement, and consistent with clearly defined research-based standards;
- (5) measures of student, family, and community involvement and satisfaction;
- (6) a data system about students and their academic progress that provides parents and the public with understandable information; and
- (7) a teacher induction and mentoring program for probationary teachers that provides continuous learning and sustained teacher support. ~~The process for developing the plan must involve district teachers; and~~
- (8) substantial teacher participation in developing the plan, including teachers selected by the exclusive representative of the teachers.

Subd. 3. [SCHOOL SITE ACCOUNTABILITY.] A district that develops a plan under subdivisions 1 and 2 must ensure that each school site develops a board-approved educational improvement plan that is aligned with the district educational improvement plan under subdivision 2 and developed with teacher participation consistent with subdivision 2, clause (8). While a site plan must be consistent with the district educational improvement plan, it may establish performance goals and benchmarks that meet or exceed those of the district. ~~The process for developing the plan must involve site teachers.~~

[EFFECTIVE DATE.] This section is effective for fiscal year 2005 and thereafter.

Sec. 8. [122A.4142] [PRINCIPLED PAY PRACTICES FOR TEACHERS.]

Subdivision 1. [PRINCIPLED PAY PRACTICES SYSTEM.] A school district and the exclusive representative of the teachers may adopt, by agreement, principled pay practices under subdivision 2 to provide incentives to attract and retain high-quality teachers, encourage high-quality teachers to accept difficult assignments, encourage teachers to improve their knowledge and skills, and support teachers' roles in improving students' educational achievement.

Subd. 2. [ELIGIBILITY FOR PRINCIPLED PAY PRACTICES AID.] To be eligible for principled pay practices aid, a school district must submit to the department:

- (a) A districtwide or site-based educational improvement plan as described in section 122A.413.

(b) An executed collective bargaining agreement that contains at least the following elements:

(1) a description of the conditions or actions necessary for career advancement and additional compensation;

(2) compensation provisions that base at least 60 percent of any increase in compensation on performance and not on years of service or the attainment of additional education or training;

(3) career advancement options for teachers retaining primary roles in student instruction and for other members of the bargaining unit;

(4) incentives for teachers' continuous improvement in content knowledge, pedagogy, and use of best practices;

(5) an objective evaluation program, including classroom or performance observation, that is aligned with the district's or site's educational improvement plan, and is a component of determining performance;

(6) provisions preventing any teacher's compensation from being reduced as a result of implementing principled pay practices;

(7) provisions enabling any teacher in the district if the principled pay practices are applied districtwide, or at a site, if the practices apply only to a site, to participate in the principled pay practices without limitations by quota or other restrictions;

(8) provisions encouraging collaboration among teachers rather than competition; and

(9) provisions for participation by all teachers in a district, all teachers at a site, or at least 25 percent of the teachers in a district.

(c) An agreement may contain different compensation provisions for separate classifications of employees.

Subd. 3. [COMMISSIONER APPROVAL.] (a) Before concluding a collective bargaining agreement, a district may submit a proposed agreement and educational improvement plan for review, comment, and preliminary approval by the commissioner. If the plan and agreement are executed in the same form as preliminarily approved by the commissioner, the plan and agreement must be approved without further review.

(b) The application to the commissioner must contain a formally adopted collective bargaining agreement, memorandum of understanding, or other binding agreement that implements principled pay practices consistent with this section.

(c) The commissioner's approval must be based on the requirements established in subdivision 2. If the commissioner does not approve an application, the notice to the school district must provide details regarding the commissioner's reason for rejecting the application.

(d) A school district that intends to apply for principled pay practices aid for the first time must notify the commissioner in writing by November 1 prior to the academic year for which they intend to seek aid. The commissioner must approve initial applications for school districts qualifying under subdivision 4, paragraph (b), clause (1), by January 15 of each year.

Subd. 4. [AID AMOUNT.] (a) A school district that meets the conditions of this section, as approved by the commissioner, is eligible for principled pay practices aid.

(b) Principled pay practices aid for a qualifying school district, site, or portion of a district or school site is as follows:

(1) for a school district in which the school board and the exclusive representative of the teachers agree to place all teachers in the district or at the site in the principled pay practices system, aid equals \$150 times the district's or the site's number of pupils enrolled on October 1 of the previous fiscal year; or

(2) for a district in which the school board and the exclusive representative of the teachers agree that at least 25 percent of the district's licensed teachers will be paid under the principled pay practices system, aid equals \$150 times the percentage of participating teachers times the district's number of pupils enrolled as of October 1 of the previous fiscal year.

Subd. 5. [PERCENTAGE OF TEACHERS.] For purposes of subdivision 4, the percentage of teachers participating in the principled pay practices system equals the ratio of the number of licensed teachers who are working at least 60 percent of a full-time teacher's hours and agree to participate in the principled pay practices system to the total number of licensed teachers who are working at least 60 percent of a full-time teacher's hours.

Subd. 6. [AID TIMING.] Districts or sites with approved applications must receive principled pay practices aid for each school year that the district or site participates in the program.

Subd. 7. [ANNUAL AID APPROPRIATION.] The amount necessary for this purpose is appropriated annually from the general fund to the commissioner of children, families, and learning for principled pay practices aid under this section.

[EFFECTIVE DATE.] This section is effective for fiscal year 2005 and thereafter.

Sec. 9. [122A.4143] [CLOSED CONTRACT.]

A district and the exclusive representative of the teachers may agree jointly to reopen a collective bargaining agreement in order to enter into a principled pay practices system consistent with section 122A.4142 and an educational improvement plan under section 122A.413.

Sec. 10. [122A.4144] [DISTRICTS RECEIVING ALTERNATIVE TEACHER COMPENSATION AID.]

Districts that qualified for alternative teacher compensation aid under section 122A.415 shall be eligible for principled pay practices aid provided that they retain the system previously approved by the commissioner through June 30, 2005. In order to receive aid after June 30, 2005, these districts must submit an application to the commissioner under section 122A.4142.

[EFFECTIVE DATE.] This section is effective for fiscal year 2005 and thereafter.

Sec. 11. Minnesota Statutes 2002, section 122A.46, subdivision 9, is amended to read:

Subd. 9. [BENEFITS.] A teacher on an extended leave of absence shall receive all of the health, accident, medical, surgical and hospitalization insurance or benefits, for both the teacher and the teacher's dependents, for which the teacher would otherwise be eligible if not on an extended leave. A teacher shall receive the coverage if such coverage is available from the school district's insurer, if the teacher requests the coverage, and if the teacher either (a) reimburses the district for the full amount of the premium necessary to maintain the coverage within one month following preceding the district's payment of the premium, or (b) if the district is wholly or partially self-insured, pays the district, according to a schedule agreed upon by the teacher and the school board, an amount determined by the school board to be the amount that would be charged for the coverage chosen by the teacher if the school board purchased all health, accident, medical, surgical and hospitalization coverage for its teachers from an insurer. A school district may enter into an agreement with the exclusive bargaining representative of teachers in the district where the district agrees to pay all or a portion of the premium for such coverage. Any such agreement must include a sunset of eligibility to qualify for the payment and must not be a continuing part of the collective bargaining agreement.

Sec. 12. [123B.061] [IMPROVING STUDENT ACCESS TO SERVICES SUPPORTING ACADEMIC SUCCESS.]

(a) School districts and the department of children, families, and learning shall work to improve students' educational achievement, to provide for student safety, and to enhance student physical and emotional and social well-being by providing access to licensed student support services.

(b) Districts and the department shall explore opportunities for obtaining additional funds to improve students' access to needed licensed student support services including, but not limited to, medical assistance reimbursements, local collaborative time study funds, federal funds, public health funds, and specifically designated funds.

(c) Districts and the department must consider nationally recommended licensed staff to student ratios when working to improve student access to needed student services:

(1) one licensed school nurse to 750 students;

(2) one licensed school social worker to 500 students;

(3) one licensed school psychologist to 1,000 students;

(4) one licensed school counselor to 250 secondary school students and one licensed school counselor to 400 elementary school students; and

(5) one or more school chemical health counselors who may be one of the professionals listed in this paragraph if the staff to student ratios are adjusted.

School districts shall develop their student services team according to the school board determined needs of their respective districts.

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

Sec. 13. Minnesota Statutes 2002, section 123B.14, subdivision 1, is amended to read:

~~Subdivision 1. [OFFICER SELECTION.] Within ten days after the election of the first board in independent districts and annually thereafter on July 1, On the first Monday of January of each year, or as soon thereafter as practicable, the board must meet and organize by selecting a chair, clerk, and a treasurer, who shall hold their offices for one year and until their successors are selected and qualify. The persons who perform the duties of the clerk and treasurer need not be members of the board and the board by resolution may combine the duties of the offices of clerk and treasurer in a single person in the office of business affairs. They may appoint a superintendent who shall be ex officio a member of the board, but not entitled to vote therein. In districts in which board members are elected at the general election in November, the annual meeting of the board must be held on the first Monday of January or as soon thereafter as practicable.~~

Sec. 14. Minnesota Statutes 2002, section 123B.57, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF PROGRAM.] A district must adopt a health and safety program. The program must include plans, where applicable, for hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management.

(a) A hazardous substance plan must contain provisions for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, and cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel, oil, and special fuel, as defined in section 296A.01. If a district has already developed a plan for the removal or encapsulation of asbestos as required by the federal Asbestos Hazard Emergency Response Act of 1986, the district may use a summary of that plan, which includes a description and schedule of response actions, for purposes of this section. The plan must also contain provisions to make modifications to existing facilities and equipment necessary to limit personal exposure to hazardous substances, as regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or is determined by the commissioner to present a significant risk to district staff or student health and safety as a result of foreseeable use, handling, accidental spill, exposure, or contamination.

(b) A fire and life safety plan must contain a description of the current fire and life safety code

violations, a plan for the removal or repair of the fire and life safety hazard, and a description of safety preparation and awareness procedures to be followed until the hazard is fully corrected.

(c) A facilities and equipment violation plan must contain provisions to correct health and safety hazards as provided in department of labor and industry standards pursuant to section 182.655.

(d) A health, safety, and environmental management plan must contain a description of training, record keeping, hazard assessment, and program management as defined in section 123B.56.

(e) A plan to test for and mitigate radon produced hazards.

(f) A plan to monitor and improve indoor air quality.

(g) A plan to review the department of administration's and the department of commerce's B3 project guidelines established under Laws 2001, chapter 212, article 1, sections 2 and 3, and, when cost-effective, include appropriate modifications as part of the project authorized under this section.

Sec. 15. Minnesota Statutes 2002, section 123B.59, subdivision 2, is amended to read:

Subd. 2. [TEN-YEAR PLAN.] (a) A qualifying district must have a ten-year facility plan approved by the commissioner that includes an inventory of projects and costs that would be eligible for:

(1) health and safety revenue;

(2) disabled access levy; and

(3) deferred capital expenditures and maintenance projects necessary to prevent further erosion of facilities.

(b) The school district must:

(1) annually update the plan;

(2) biennially submit a facility maintenance plan; and

(3) indicate whether the district will issue bonds to finance the plan or levy for the costs.

(c) The school district must review the department of administration's and the department of commerce's B3 project guidelines established under Laws 2001, chapter 212, article 1, sections 2 and 3, and, when cost-effective, include appropriate modifications as part of the project authorized under this section.

Sec. 16. Minnesota Statutes 2002, section 123B.62, is amended to read:

123B.62 [BONDS FOR CERTAIN CAPITAL FACILITIES.]

(a) In addition to other bonding authority, with approval of the commissioner, a district may issue general obligation bonds for certain capital projects under this section. The bonds must be used only to make capital improvements including:

(1) under section 126C.10, subdivision 14, total operating capital revenue uses specified in clauses (4), (6), (7), (8), (9), and (10);

(2) the cost of energy modifications, including, when cost-effective, compliance with the department of administration's and the department of commerce's B3 project guidelines established under Laws 2001, chapter 212, article 1, sections 2 and 3;

(3) improving handicap accessibility to school buildings; and

(4) bringing school buildings into compliance with life and safety codes and fire codes.

(b) Before a district issues bonds under this subdivision, it must publish notice of the intended projects, the amount of the bond issue, and the total amount of district indebtedness.

(c) A bond issue tentatively authorized by the board under this subdivision becomes finally authorized unless a petition signed by more than 15 percent of the registered voters of the district is filed with the school board within 30 days of the board's adoption of a resolution stating the board's intention to issue bonds. The percentage is to be determined with reference to the number of registered voters in the district on the last day before the petition is filed with the board. The petition must call for a referendum on the question of whether to issue the bonds for the projects under this section. The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this section.

(d) The bonds must be paid off within ten years of issuance. The bonds must be issued in compliance with chapter 475, except as otherwise provided in this section. A tax levy must be made for the payment of principal and interest on the bonds in accordance with section 475.61. The sum of the tax levies under this section and section 123B.61 for each year must not exceed the limit specified in section 123B.61. The levy for each year must be reduced as provided in section 123B.61. A district using an excess amount in the debt redemption fund to retire the bonds shall report the amount used for this purpose to the commissioner by July 15 of the following fiscal year. A district having an outstanding capital loan under section 126C.69 or an outstanding debt service loan under section 126C.68 must not use an excess amount in the debt redemption fund to retire the bonds.

(e) Notwithstanding paragraph (d), bonds issued by a district within the first five years following voter approval of a combination according to section 123A.37, subdivision 2, must be paid off within 20 years of issuance. All the other provisions and limitation of paragraph (d) apply.

Sec. 17. Minnesota Statutes 2002, section 123B.71, subdivision 4, is amended to read:

Subd. 4. [PLAN SUBMITTAL.] For a project for which consultation is required under subdivision 1, the commissioner, after the consultation required in subdivision 1, may require a school district to submit preliminary and final plans for approval. The commissioner shall approve or disapprove the plans within 90 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 16B.59 to 16B.73, and, when cost-effective, the department of administration's and the department of commerce's B3 project guidelines established under Laws 2001, chapter 212, article 1, sections 2 and 3.

Sec. 18. Minnesota Statutes 2002, section 123B.71, subdivision 9, is amended to read:

Subd. 9. [INFORMATION REQUIRED.] A school board proposing to construct a facility described in subdivision 8 shall submit to the commissioner a proposal containing information including at least the following:

(1) the geographic area and population to be served, preschool through grade 12 student enrollments for the past five years, and student enrollment projections for the next five years;

(2) a list of existing facilities by year constructed, their uses, and an assessment of the extent to which alternate facilities are available within the school district boundaries and in adjacent school districts;

(3) a list of the specific deficiencies of the facility that demonstrate the need for a new or renovated facility to be provided, and a list of the specific benefits that the new or renovated facility will provide to the students, teachers, and community users served by the facility;

(4) the relationship of the project to any priorities established by the school district, educational cooperatives that provide support services, or other public bodies in the service area;

(5) a specification of how the project will increase community use of the facility and whether and how the project will increase collaboration with other governmental or nonprofit entities;

(6) a description of the project, including the specification of site and outdoor space acreage and square footage allocations for classrooms, laboratories, and support spaces; estimated expenditures for the major portions of the project; and the dates the project will begin and be completed;

(7) a specification of the source of financing the project; the scheduled date for a bond issue or school board action; a schedule of payments, including debt service equalization aid; and the effect of a bond issue on local property taxes by the property class and valuation;

(8) an analysis of how the proposed new or remodeled facility will affect school district operational or administrative staffing costs, and how the district's operating budget will cover any increased operational or administrative staffing costs;

(9) a description of the consultation with local or state road and transportation officials on school site access and safety issues, and the ways that the project will address those issues;

(10) a description of how indoor air quality issues have been considered and a certification that the architects and engineers designing the facility will have professional liability insurance;

(11) as required under section 123B.72, for buildings coming into service after July 1, 2002, a certification that the plans and designs for the extensively renovated or new facility's heating, ventilation, and air conditioning systems will meet or exceed code standards; will provide for the monitoring of outdoor airflow and total airflow of ventilation systems; and will provide an indoor air quality filtration system that meets ASHRAE standard 52.1;

(12) a specification of any desegregation requirements that cannot be met by any other reasonable means; and

(13) a specification, if applicable, of how the facility will utilize environmentally sustainable school facility design concepts and, when cost-effective, comply with the department of administration's and the department of commerce's B3 project guidelines established under Laws 2001, chapter 212, article 1, sections 2 and 3.

Sec. 19. Minnesota Statutes 2002, section 124D.10, subdivision 3, is amended to read:

Subd. 3. [SPONSOR.] (a) A school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19; charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is a member of the Minnesota council of nonprofits or the Minnesota council on foundations, registered with the attorney general's office, and reports an end-of-year fund balance of at least \$2,000,000; Minnesota private college that grants two- or four-year degrees and is registered with the higher education services office 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) A nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under section 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 and if the nonprofit corporation has existed for at least 25 years.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 20. Minnesota Statutes 2002, 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 for any number of not to exceed five years requested by the teacher, and must. Any request to extend the leave at the teacher's request

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. 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.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to approvals of leaves or approvals of extensions of leaves made after that date. Notwithstanding Minnesota Statutes 2002, section 122A.46, subdivision 2, a school district, upon request, must grant a one-year extension for the 2003-2004 school year to a teacher on a leave of absence to teach at a charter school under this subdivision who has been on leave for five or more years as of the 2003-2004 school year.

Sec. 21. [125B.25] [ON-LINE LEARNING COURSES.]

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

(a) "Student" means a public school or charter school student enrolled for one or more courses in any grades kindergarten through 12, or a student that is enrolled in a learning year program under section 124D.128 or an area learning center under sections 123A.05 to 123A.09.

(b) "Enrolled district" means a school district or charter school in which the student taking the on-line course is enrolled.

(c) "Serving district" means a school district, a charter school, or two or more school districts organized under a joint powers agreement, offering an on-line course that is accessible by students outside of the regular school day or from a location other than a public school building.

Subd. 2. [STUDENT ELIGIBILITY.] (a) Students shall be enrolled in a Minnesota school. Private school students in any grades kindergarten through 12 may enroll in an on-line course offered at a public school and are eligible for certificates of authorization under subdivision 7.

(b) Students who are age 17 or younger must have written permission from a parent or guardian in order to be enrolled in an on-line course.

(c) Students shall notify their enrolled district at least 30 days prior to taking an on-line course offered by a serving district.

(d) A student's enrollment in an on-line course in a serving district shall not affect their ability to participate in extracurricular activities in their enrolled district.

(e) Homeschooled students may take an on-line course at a Minnesota school with an agreement between the school and the parents or guardian of the homeschooled student.

(f) A student with a disability may enroll in an on-line course if the student's individual education plan determines that the on-line course is a proper type of instruction for the student.

Subd. 3. [ENROLLED DISTRICT RESPONSIBILITY.] (a) An enrolled school district is not required to provide a student taking an on-line course in a serving district with access to a computer or to the Internet. The enrolled district must provide equal access to school computer equipment for students taking on-line courses as it does for other students attending public schools in the district.

(b) An enrolled school district may not prohibit a student from taking an on-line course in a serving district.

(c) The enrolled district must determine the graduation requirements for a student taking an on-line course and must continue to provide other nonacademic services for the student. If a student successfully completes an on-line course that meets or exceeds a graduation standard or grade progression requirement at the enrolled district, that standard or requirement shall be considered met. The enrolled district must use the same criteria for accepting on-line credits or courses as it does for accepting credits or courses for transfer students under section 124D.03, subdivision 9.

(d) The enrolled district may reduce a student's teacher contact time in proportion to the total amount of revenue paid to serving districts under subdivision 6 for that student, divided by the per pupil general education amount for the district for that year.

(e) The enrolled district may establish a maximum number of on-line courses that a student may take within one school year. The maximum number of courses under this paragraph may not be less than ten courses for a single student within one school year. A student may exceed this limit if a student has reached an agreement with a serving district to pay for the course by other means.

(f) The enrolled district must not adjust their average daily membership for students taking on-line courses in other school districts.

(g) The enrolled district must not count excess contact time under section 126C.05, subdivision 5, for a student that is attending a learning year program under section 124D.128 or an area learning center under sections 123A.05 to 123A.09 and is taking an on-line course in other school districts.

(h) The enrolled district may offer an on-line course to a resident homeschooled student who is eligible for shared time aid under section 126C.19 if an equivalent course is available at the public school site.

(i) A district or charter school may provide instruction or courses using on-line or other distance learning methods to students enrolled in the district or charter school. Such instruction or courses offered solely to enrolled students is not subject to the reporting requirements to the department under subdivision 4, paragraph (g), and the department review criteria under subdivision 8. Instruction and courses offered to enrolled students under this paragraph must be designed and delivered by a teacher with a Minnesota license and not by a parent or other surrogate not so licensed. The instruction may include curriculum elements developed by persons other than a teacher with a Minnesota license.

Subd. 4. [SERVING DISTRICT RESPONSIBILITY.] (a) The instruction for on-line courses at a serving district must be designed and delivered by a teacher with a Minnesota license and not by a parent or other surrogate not so licensed. The instruction may include curriculum elements developed by persons other than a teacher with a Minnesota license. Unless a waiver is granted by the commissioner of children, families, and learning, the serving district must not exceed a ratio of 40 students for each instructor for each on-line course.

(b) The serving district must offer to students who show an economic need technical assistance in acquiring computer equipment and on-line access through the Minnesota education credit under section 290.0674 so that students may access their on-line course from home.

(c) The serving district may limit enrollment to their on-line courses and may set up other prerequisite restrictions.

(d) The serving district may offer other supplemental on-line courses that are not eligible for reimbursement under this section.

(e) The serving district must not adjust their average daily membership for students taking on-line courses at the district.

(f) The serving district must be approved by the department under subdivision 8 to offer on-line courses under this section.

(g) The serving district must file a copy of its on-line coursework with the department.

Subd. 5. [ON-LINE COURSE REVENUE.] The on-line course allowance equals the general education formula amount under section 126C.10, subdivision 2, times .09. On-line course revenue for a serving district equals the number of on-line courses successfully completed by enrolled students, times the on-line course allowance.

Subd. 6. [DEPARTMENT PAYMENT PROCESS.] (a) The department must pay the serving district the amount of on-line course revenue determined by the successful completion of on-line courses in subdivision 5 and reduce the enrolled district's general education aid by the same amount.

(b) The department must pay the serving district within 30 days upon notification from the serving district that the student has successfully completed a course. The enrolled district may challenge the validity of the course to the department within this 30-day period.

(c) The serving district may bill the enrolled district for a greater amount than determined in subdivision 5 upon agreement between the enrolled district and the serving district.

(d) Enrolled and serving districts shall not adjust their average daily membership for aid paid or received under this section.

(e) The department must not pay state aid to a serving district or reduce state aid to an enrolled district if the student has successfully completed or is currently enrolled in more than ten courses in a single school year.

Subd. 7. [ON-LINE COURSE REVENUE FOR DISTRICTS OFFERING COURSES TO PRIVATE SCHOOL STUDENTS.] (a) In a form and manner determined by the commissioner, the commissioner may issue certificates of authorization to students enrolled in a Minnesota private school in any grades kindergarten through 12 who are applying for an on-line course at a serving school district. The certificate authorizes a private school student to enroll in an on-line course and allows the serving school district to seek a revenue reimbursement for the course.

(b) Each certificate of authorization is equal to the on-line formula allowance calculated under subdivision 5. The commissioner shall issue no more than 2,400 certificates of authorization for each school year.

(c) In order to receive revenue under this subdivision, the serving district must submit to the department for reimbursement certificates issued under paragraph (a) for each course successfully completed by a private school student.

(d) Nothing in this subdivision shall interfere with a private school student's participation in the shared time program under section 126C.19.

Subd. 8. [DEPARTMENT OF CHILDREN, FAMILIES, AND LEARNING.] (a) The department must establish procedures for reviewing and certifying serving districts that are offering on-line courses that are rigorous, aligned with state graduation standards, and are contributing to grade progression in a single subject. The serving districts must demonstrate that on-line courses have equivalent standards or instruction, curriculum development, and assessment requirements as other courses offered at the public school site. The serving district must also demonstrate expectations for teacher contact time through actual contact time or other student-to-teacher communication. Once the district is approved under this paragraph, all of its on-line course offerings shall be eligible for payment under this section unless a course is successfully challenged by an enrolled district or the department under paragraph (b).

(b) The department must review challenges from an enrolled district on the validity of a course offered at a serving district based on the procedures for certifying districts under paragraph (a). The department may initiate its own review on the validity of a course offered at a serving district.

(c) The department may collect a fee not to exceed \$250 for certifying serving districts or \$50 per course for reviewing a challenge from an enrolled district.

(d) The department must develop, publish, and maintain a list of approved serving districts and on-line courses that have been reviewed and certified by the department.

Sec. 22. Minnesota Statutes 2002, section 126C.19, is amended by adding a subdivision to read:

Subd. 5. [ON-LINE COURSES.] For the purposes of shared time average daily membership under section 126C.01, subdivision 6, a school district may consider completed on-line courses by resident homeschooled students under section 125B.25, subdivision 3, paragraph (h), as equivalent to taking a course at a public school site if an equivalent course is available at the school site.

Sec. 23. Minnesota Statutes 2002, section 128C.02, subdivision 1, is amended to read:

Subdivision 1. [DECISIONS, POLICIES, ADVISORY COMMITTEES.] The board shall establish and adopt policies, including a policy on corporate sponsorships and similar agreements, make decisions on behalf of the league, and establish advisory committees necessary to carry out board functions.

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

Sec. 24. Minnesota Statutes 2002, section 354.094, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT CONTRIBUTIONS.] Upon granting any extended leave of absence under section 122A.46 or 136F.43, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member granted an extended leave of absence under section 122A.46 or 136F.43 may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave, provided that the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave. The employer may enter into an agreement with the exclusive bargaining representative of the member under which all or a portion of the employee's contribution is paid by the employer. Any such agreement must include a sunset of eligibility to qualify for the payment and must not be a continuing part of the collective bargaining agreement. The leave period must not exceed five years. A member may not receive more than five years of allowable service credit under this section. The employee and employer contributions must be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave must be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include interest at an annual rate of 8.5 percent from June 30 through the end of the month in which payment is received. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit if the member does not have full reinstatement rights as provided in section 122A.46 or 136F.43, both during and at the end of the extended leave.

Sec. 25. [AT-LARGE SCHOOL BOARD MEMBERS; INDEPENDENT SCHOOL DISTRICT NO. 709, DULUTH.]

(a) Notwithstanding Laws 1969, chapter 698, or other law to the contrary, the school board for independent school district No. 709, Duluth, may by resolution reduce from five to three the number of at-large school board members.

(b) If the school board adopts the resolution under paragraph (a), for the November 2003 election and each four years thereafter, the three positions of those members elected at large whose terms expire on December 31, 2003, shall be reduced to one member elected at large.

(c) Nothing in this section prevents a member of the school board on the effective date of this act who is otherwise qualified from running for reelection upon the expiration of that member's term.

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

Sec. 26. [IMPACT OF WAIVING SPECIFIC SPECIAL EDUCATION REQUIREMENTS THAT EXCEED FEDERAL LAW; TWO-YEAR PILOT PROJECT.]

Subdivision 1. [ESTABLISHMENT; GOAL.] A two-year pilot project is established to permit independent school district No. 535, Rochester, and up to three other geographically diverse school districts or cooperative of districts, or both, selected by the commissioner of children, families, and learning to determine the impact, if any, of waiving specific special education requirements listed in subdivision 3 on the quality and cost effectiveness of the instructional services and educational outcomes provided to eligible students in the participating district.

Subd. 2. [ELIGIBILITY; APPLICATIONS.] The commissioner must transmit information about the pilot project and make application forms available to interested school districts. Applications must be submitted to the commissioner by July 1, 2003. An applicant must identify the specific special education requirements listed in subdivision 3 for which the applicant seeks a waiver and indicate how the applicant proposes to modify the activities and procedures affected by the waiver. The commissioner must approve the applications by August 1, 2003.

Subd. 3. [WAIVERS.] The following state special education requirements are waived for the 2003-2004 and 2004-2005 school years for independent school district No. 535, Rochester, and the other school districts participating in this pilot project:

- (1) Minnesota Statutes, section 125A.56, governing prereferral interventions;
- (2) Minnesota Statutes, section 125A.18, governing special instruction in nonpublic schools;
- (3) Minnesota Statutes, section 125A.08, governing transitional services;
- (4) Minnesota Statutes, section 125A.22, governing community transition interagency committees; and
- (5) Minnesota Statutes, section 125A.023, governing coordinated interagency services, but only for eligible children with disabilities age six or older.

Subd. 4. [STUDENTS' RIGHTS.] Eligible students enrolled in a district participating in this pilot project remain entitled to the procedural protections provided under federal law in any matter that affects the students' identification, evaluation, and placement or change in placement, or protections provided under state law in dismissal proceedings that may result in students' suspension, exclusion, or expulsion. Participating school districts must ensure the protections of students' civil rights, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district to become ineligible to participate in the pilot project.

Subd. 5. [TECHNICAL ASSISTANCE.] The commissioner must provide assistance to participating districts, upon request, including assistance in developing and implementing a valid and uniform procedure under subdivision 6 to evaluate districts' experience.

Subd. 6. [EVALUATION; REPORT.] All participating school districts must evaluate the impact, if any, of waiving specific special education requirements listed in subdivision 3 on the quality and cost effectiveness of the instructional services and educational outcomes provided to eligible students in the participating district. Districts must focus the evaluation on the overall efficacy of modifying the activities and procedures affected by the waiver. The evaluation must include a mechanism for documenting parents' response to the pilot project. Participating districts must submit to the commissioner a progress report by September 1, 2004, and a final report by November 1, 2005. The commissioner must compile and present the results of the reports to the legislature by February 1, 2006, and recommend appropriate amendments to the statutory requirement listed in subdivision 3.

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

Sec. 27. [EVALUATION; MINIMUM STUDENT CONTACT TIME FOR ON-LINE COURSES.]

The office of education accountability at the University of Minnesota must conduct a study on the amount of in-person student contact time, if any, that should be considered a minimum requirement for students taking on-line courses. The office of education accountability must report its findings to the legislature by February 1, 2004.

Sec. 28. [STATEWIDE ASSESSMENTS; ON-LINE LEARNING.]

The commissioner of children, families, and learning must establish statewide testing recommendations aligned with state and federal accountability requirements for students who are enrolled in on-line courses.

Sec. 29. [APPROPRIATION.]

(a) The following amounts are appropriated from the general fund to the department of children, families, and learning for the fiscal years designated for on-line course revenue for districts offering courses to private school students under Minnesota Statutes, section 125B.25, subdivision 7:

\$.....	2004
\$.....	2005

(b) \$..... is appropriated in fiscal year 2005 from the general fund to the commissioner of children, families, and learning for principled pay practices aid.

Sec. 30. [REPEALER.]

(a) Minnesota Statutes 2002, sections 122A.414 and 122A.415, are repealed.

(b) Minnesota Statutes 2002, sections 128C.01, subdivision 5; 128C.02, subdivision 8; and 128C.13, are repealed.

[EFFECTIVE DATE.] Paragraph (a) is effective for fiscal year 2005 and thereafter. Paragraph (b) is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to education; providing for kindergarten through grade 12 education policy; appropriating money; amending Minnesota Statutes 2002, sections 120A.05, subdivision 11; 120A.41; 121A.23; 122A.18, subdivision 7a; 122A.22; 122A.40, subdivision 5; 122A.413; 122A.46, subdivision 9; 123B.14, subdivision 1; 123B.57, subdivision 2; 123B.59, subdivision 2; 123B.62; 123B.71, subdivisions 4, 9; 124D.10, subdivisions 3, 20; 126C.19, by adding a subdivision; 128C.02, subdivision 1; 354.094, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 122A; 123B; 125B; repealing Minnesota Statutes 2002, sections 122A.414; 122A.415; 128C.01, subdivision 5; 128C.02, subdivision 8; 128C.13."

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 Environment and Natural Resources, to which was referred

S.F. No. 887: A bill for an act relating to natural resources; modifying game and migratory waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain circumstances; modifying certain game license provisions; modifying certain fish possession restrictions; amending Minnesota Statutes 2002, sections 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2; 97A.421, by adding a subdivision; 97A.435, subdivision 4; 97B.721; 97C.401, 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 2002, section 97A.015, subdivision 24, is amended to read:

Subd. 24. [GAME BIRDS.] "Game birds" means migratory waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, turkeys, coots, gallinules, sora and Virginia rails, mourning dove, American woodcock, and common snipe.

Sec. 2. Minnesota Statutes 2002, section 97A.085, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT BY COMMISSIONER.] The commissioner may designate a ~~contiguous area of at least 640 acres as a game refuge if more than 50 percent of the area is in public ownership. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat.~~

Sec. 3. Minnesota Statutes 2002, section 97A.085, subdivision 3, is amended to read:

Subd. 3. [ESTABLISHMENT BY PETITION OF LAND HOLDERS.] The commissioner may designate a land area or portion of a land area described in a petition as a game refuge. The petition must be signed by the owner, the lessee, or the person in possession of each tract in the area. A certificate of the auditor of the county where the lands are located must accompany the petition stating that the persons named in the petition are the owners, lessees, or persons in possession of all of the land described according to the county records. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat.

Sec. 4. Minnesota Statutes 2002, section 97A.085, subdivision 4, is amended to read:

Subd. 4. [ESTABLISHMENT BY PETITION OF COUNTY RESIDENTS.] The commissioner may designate as a game refuge ~~public waters or a contiguous area of at least 640 acres, described in a petition, signed by 50 or more residents of the county where the public waters or area is located. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat. The game refuge may be designated only if the commissioner finds that protected wild animals are depleted and are in danger of extermination, or that it will best serve the public interest.~~

Sec. 5. Minnesota Statutes 2002, section 97A.095, subdivision 1, is amended to read:

Subdivision 1. [MIGRATORY WATERFOWL REFUGES SANCTUARY.] The commissioner ~~shall~~ may designate by rule any part of a state game refuge or any part of a public water that is designated for management purposes under section 97A.101, subdivision 2, as a migratory waterfowl refuge sanctuary if there is presented to the commissioner a petition signed by ten resident licensed hunters describing an area that is primarily a migratory waterfowl refuge. The commissioner shall post the area as a migratory waterfowl refuge sanctuary. A person may not enter a posted migratory waterfowl refuge sanctuary during the open migratory waterfowl season unless accompanied by or under a permit issued by a conservation officer or game refuge wildlife manager. Upon a request from a private landowner within a migratory waterfowl refuge sanctuary, an annual permit must be issued to provide access to the property during the waterfowl season. The permit shall include conditions that allow no activity which would disturb waterfowl using the refuge during the waterfowl season.

Sec. 6. Minnesota Statutes 2002, section 97A.095, subdivision 2, is amended to read:

Subd. 2. [WATERFOWL FEEDING AND RESTING AREAS.] The commissioner may, by rule, designate any part of a lake as a migratory feeding ~~or~~ and resting area. Before designation, the commissioner must receive a petition signed by at least ten local resident licensed hunters describing the area of a lake that is a substantial feeding or resting area for migratory waterfowl, and find that the statements in the petition are correct, and that adequate, free public access to the lake exists near the designated area. The commissioner shall post the area as a migratory waterfowl feeding and resting area. Except as authorized in rules adopted by the commissioner, a person may not enter a posted migratory waterfowl feeding and resting area, during a period when hunting of migratory waterfowl is allowed, with watercraft or aircraft propelled by a motor, other

than an electric motor of less than 30 pounds thrust. The commissioner may, by rule, further restrict the use of electric motors in migratory waterfowl feeding and resting areas.

Sec. 7. Minnesota Statutes 2002, section 97A.095, subdivision 4, is amended to read:

Subd. 4. [SWAN LAKE MIGRATORY WATERFOWL REFUGE SANCTUARY.] The land described in Laws 1999, chapter 81, section 2, is designated Swan Lake migratory waterfowl refuge sanctuary under subdivision 1.

Sec. 8. Minnesota Statutes 2002, section 97A.420, subdivision 4, is amended to read:

Subd. 4. [HEARING.] (a) A hearing under subdivision 3 must be before a district court judge in the county where the incident occurred giving rise to the license seizure. The hearing must be to the court and may be conducted at the same time as hearings upon pretrial motions in a related criminal prosecution. The commissioner must be represented by the county attorney.

(b) The hearing must be held at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review.

(c) The scope of the hearing must be limited to the issue of whether there is probable cause to believe that the person ~~violated section 97A.338~~ had unlawfully taken, possessed, or transported wild animals with a restitution value over \$500.

(d) The court shall order that the license seizure be either sustained or rescinded. Within 14 days following the hearing, the court shall forward a copy of the order to the commissioner.

(e) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Civil Appellate Procedure.

Sec. 9. Minnesota Statutes 2002, section 97A.421, is amended by adding a subdivision to read:

Subd. 4a. [SUSPENSION FOR FAILURE TO APPEAR IN COURT OR TO PAY A FINE OR SURCHARGE.] When a court reports to the commissioner that a person (1) has failed to appear in court under the summons issued to them for a violation of the game and fish laws or (2) has been convicted of violating a provision of the game and fish laws, has been sentenced to the payment of a fine or had a surcharge levied against them, and refused or failed to comply with that sentence or to pay the fine or surcharge, the commissioner shall suspend the game and fish license and permit privileges of the person until notified by the court that the person has appeared in court under clause (1) or that any fine or surcharge due the court has been paid under clause (2).

Sec. 10. Minnesota Statutes 2002, section 97A.435, subdivision 4, is amended to read:

Subd. 4. [SEPARATE SELECTION OF ELIGIBLE LICENSEES.] (a) The commissioner may conduct a separate selection for up to 20 percent of the turkey licenses to be issued for any area. Only persons who are owners or tenants of and who live on at least 40 acres of ~~agricultural or grazing~~ land in the area, and their family members, are eligible applicants for turkey licenses for the separate selection. The qualifying ~~agricultural or grazing~~ land may be noncontiguous. Persons who are unsuccessful in a separate selection must be included in the selection for the remaining licenses. Persons who obtain a license in a separate selection must allow public turkey hunting on their land during that turkey season. A license issued under this subdivision is restricted to the land owned or leased by the holder of the license within the permit area where the qualifying land is located.

(b) The commissioner may by rule establish criteria for determining eligible family members under this subdivision.

Sec. 11. Minnesota Statutes 2002, section 97B.075, is amended to read:

97B.075 [HUNTING RESTRICTED BETWEEN EVENING AND MORNING.]

(a) A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except as provided in this section.

(b) Big game may be taken from one-half hour before sunrise until one-half hour after sunset, ~~and,~~

(c) Except as otherwise prescribed by the commissioner ~~during the first eight days of the season before the Saturday nearest October 8, until January 1, 2001,~~ waterfowl may be taken from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner. On the opening day of the duck season, shooting hours for migratory game birds, except woodcock, begin at 9:00 a.m.

Sec. 12. Minnesota Statutes 2002, section 97B.301, subdivision 7, is amended to read:

Subd. 7. [ALL SEASON DEER LICENSE.] (a) A resident may obtain an all season deer license. This license authorizes the resident to take one buck by firearm or archery during any season statewide. In addition, a resident obtaining this license may take one antlerless deer:

(1) by firearms in the regular firearms season if the resident first obtains an antlerless deer permit;

(2) by archery in the archery season; or

(3) by muzzleloader in the muzzleloader season.

~~(b) A person obtaining an all season deer license does not qualify for hunting under subdivision 3.~~ The commissioner shall issue one tag for a buck and one tag for an antlerless deer when issuing a license under this subdivision.

Sec. 13. Minnesota Statutes 2002, section 97B.721, is amended to read:

97B.721 [LICENSE AND STAMP VALIDATION REQUIRED TO TAKE TURKEY; TAGGING AND REGISTRATION REQUIREMENTS.]

(a) Except as provided in paragraph (b) or section 97A.405, subdivision 2, a person may not take a turkey without possessing a turkey license and a turkey stamp validation.

(b) The requirement in paragraph (a) to have a turkey stamp validation does not apply to persons under age 18. An unlicensed adult age 18 or older may assist a licensed wild turkey hunter under the age of 16. The unlicensed adult may not shoot or possess a firearm or bow while assisting a youth under this paragraph.

(c) The commissioner may by rule prescribe requirements for the tagging and registration of turkeys.

Sec. 14. Minnesota Statutes 2002, section 97B.901, is amended to read:

97B.901 [REGISTRATION AND TAGGING OF FUR-BEARING ANIMALS.]

(a) The commissioner may, by rule, require persons taking, possessing, and transporting fur-bearing animals to tag the animals. The commissioner shall prescribe the manner of issuance and the type of tag, which must show the year of issuance. The commissioner shall issue the tag, without a fee, upon request.

(b) The pelt of each bobcat, fisher, pine marten, and otter must be presented, by the person taking it, to a state wildlife manager designee for registration before the pelt is sold and before the pelt is transported out of the state, but in no event more than 48 hours after the season closes for the species. Until March 1, 2003 2005, a possession or site tag is not required prior to registration of the fisher, pine marten, or otter.

Sec. 15. Minnesota Statutes 2002, section 97C.605, subdivision 2c, is amended to read:

Subd. 2c. [LICENSE EXEMPTIONS.] (a) A person does not need a turtle seller's license or an angling license:

- (1) when buying turtles for resale at a retail outlet;
- (2) when buying a turtle at a retail outlet; or

(3) if the person is a nonresident buying a turtle from a licensed turtle seller for export out of state. Shipping documents provided by the turtle seller must accompany each shipment exported out of state by a nonresident. Shipping documents must include: name, address, city, state, and zip code of the buyer; number of each species of turtle; and name and license number of the turtle seller.

(b) A person does not need a turtle seller's license to take turtles and possess up to 25 turtles at one time, and to rent or sell the turtles for the purpose of providing the turtles to the permitted sponsor of a nonprofit turtle race, if the person is listed as a turtle collector on a permit issued to the sponsor of the turtle race under section 97A.401, subdivision 3. No more than five collectors may be listed on any one turtle-race permit.

Sec. 16. [REPORT.]

By January 15, 2006, the commissioner shall report to the chairs of the senate and house committees having jurisdiction over natural resources policy, evaluating the impacts of the change in shooting hours, including harvest success and the effect on local waterfowl populations.

Sec. 17. [REPORTS AND COOPERATIVE EFFORTS REGARDING LEAD FISHING TACKLE.]

Subdivision 1. [MULTIJURISDICTIONAL COOPERATION FOR LEAD TACKLE RESTRICTIONS AND EDUCATION.] In order to promote consistent, nationally applicable regulations and education, the commissioner of natural resources may coordinate and participate in efforts to promote national laws and educational programs regarding lead fishing tackle. The commissioner may participate with other jurisdictions, including federal, state and international governments, in activities under this subdivision, including advocacy for uniform laws, educational efforts, and the creation of incentives to use nonlead tackle. The commissioner may solicit and involve tackle manufacturers, conservation organizations, and fishing associations in cooperative efforts under this subdivision.

Subd. 2. [LEAD TACKLE AWARENESS AND PUBLIC EDUCATION.] The commissioner of natural resources and the director of the office of environmental assistance shall provide public education regarding concerns about lead fishing tackle and promote the availability of nonlead fishing tackle.

Subd. 3. [VOLUNTARY CONSERVATION OFFICER PARTICIPATION IN LEAD TACKLE AWARENESS CAMPAIGN.] Conservation officers in the department of natural resources may provide information to anglers regarding lead tackle and may provide samples of lead-free sinkers and jigs.

Subd. 4. [REPORT ON HEALTH HAZARDS OF HOME MANUFACTURE OF FISHING TACKLE.] The commissioners of health and pollution control agency may provide a report to the legislative committees with jurisdiction over environmental and health policies regarding the health hazards associated with the home manufacture of lead fishing tackle. The report may make recommendations to mitigate the concerns associated with any identifiable health hazard discussed in the report.

Sec. 18. [GRANTS.]

The director of the office of environmental assistance, in consultation with the commissioner of natural resources, may make grants under Minnesota Statutes, sections 115A.152 and 115D.04, to conservation organizations and angler associations to assist in reducing the use of lead fishing tackle, including grants for educational activities.

Sec. 19. [REPORT.]

By March 1, 2004, the commissioner shall report to the house and senate policy committees with jurisdiction over natural resources on the results of the mourning dove season authorized by this act. The report must include a description of the impact of the season on the mourning dove population in the state.

Sec. 20. [REPEALER.]

Minnesota Statutes 2002, section 97B.731, subdivision 2, is repealed.

Sec. 21. [EFFECTIVE DATE.]

Sections 1, 8, 14, 20, and 21 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying game and migratory waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain circumstances; modifying certain game license provisions; modifying certain fish possession restrictions; modifying shooting hours for migratory game birds; requiring a report; providing a licensing exemption to supply turtles for nonprofit turtle racing; requiring public education efforts regarding lead fishing tackle; authorizing grants; authorizing a hunting season for mourning doves; requiring a report on the impact of the mourning dove season; amending Minnesota Statutes 2002, sections 97A.015, subdivision 24; 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2, 4; 97A.420, subdivision 4; 97A.421, by adding a subdivision; 97A.435, subdivision 4; 97B.075; 97B.301, subdivision 7; 97B.721; 97B.901; 97C.605, subdivision 2c; repealing Minnesota Statutes 2002, section 97B.731, subdivision 2."

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

Senator Hottinger, from the Committee on Rules and Administration, to which was referred

H.F. No. 51 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		51	537		

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Anderson from the Committee on Commerce and Utilities, to which was referred

S.F. No. 1182: A bill for an act relating to liquor; eliminating certain geographic restrictions on competition for municipal liquor stores; extending bar hours to 2:00 a.m.; providing for uniform hours for off-sale of liquor in the state; removing restrictions on the number of on-sale and off-sale liquor licenses that may be issued by a municipality; amending Minnesota Statutes 2002, sections 340A.404, subdivision 6; 340A.405, subdivision 2; 340A.504, subdivisions 1, 2, 3, 4, 5; repealing Minnesota Statutes 2002, section 340A.413.

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

Page 5, delete section 8 and insert:

"Sec. 8. Minnesota Statutes 2002, section 340A.510, subdivision 1, is amended to read:

Subdivision 1. [SAMPLES AUTHORIZED.] ~~Off-sale licenses~~ Notwithstanding any other law, on- or off-sale retail licensees and municipal liquor stores may provide, or permit a licensed manufacturer or a wholesaler or its agents to provide on the premises of the retail licensee or municipal liquor store, samples of malt liquor, wine, liqueurs, cordials, and distilled spirits intoxicating liquor, which the retail licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, cordial, and distilled spirits and caps, tee shirts, or other promotional items. The samples are must be dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale sale in a quantity less than 100 milliliters of malt liquor per variety of malt liquor per customer, 50 milliliters of wine per variety of wine per customer, 25 milliliters of per variety of liqueur or cordial per customer, and 15 milliliters of distilled spirits per variety per customer."

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "authorizing certain samples;"

Page 1, line 10, after "5;" insert "340A.510, subdivision 1."

Page 1, delete line 11

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

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

S.F. No. 443: A bill for an act relating to human services; expanding adult foster care license capacity; amending Minnesota Statutes 2002, section 245A.11, subdivision 2a.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

DEPARTMENT OF HUMAN SERVICES LICENSING

Section 1. Minnesota Statutes 2002, section 245A.09, subdivision 7, is amended to read:

Subd. 7. [REGULATORY METHODS.] (a) Where appropriate and feasible the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

(1) expansion of the types and categories of licenses that may be granted;

(2) when the standards of another state or federal governmental agency or an independent accreditation body have been shown to ~~predict compliance with the rules~~ require the same standards, methods, or alternative methods to achieve substantially the same intended outcomes as the licensing standards, the commissioner shall consider compliance with the governmental or accreditation standards to be equivalent to partial compliance with the ~~rules~~ licensing standards; and

(3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

(b) If the commissioner accepts accreditation as documentation of compliance with a licensing standard under paragraph (a), the commissioner shall continue to investigate complaints related to noncompliance with all licensing standards. The commissioner may take a licensing action for noncompliance under this chapter and shall recognize all existing appeal rights regarding any licensing actions taken under this chapter.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in consolidating duplicative licensing and

certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in conducting joint agency inspections of programs.

(e) (d) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

(d) (e) Unless otherwise specified in statute, the commissioner may specify in rule periods of licensure up to two years conduct routine inspections biennially.

Sec. 2. Minnesota Statutes 2002, section 245A.10, is amended to read:

245A.10 [FEES.]

The commissioner shall charge a fee for evaluation of applications and inspection of programs, other than family day care and foster care, which are licensed under this chapter. The commissioner may charge a fee for the licensing of school age child care programs, in an amount sufficient to cover the cost to the state agency of processing the license.

A county agency may charge a fee to an applicant or license holder in an amount not to exceed \$100 to cover the county agency's costs for evaluating applications and inspecting family child care and group family child care programs that are licensed under this chapter.

Sec. 3. Minnesota Statutes 2002, section 245A.11, is amended by adding a subdivision to read:

Subd. 7. [ADULT FOSTER CARE; VARIANCE FOR ALTERNATE OVERNIGHT SUPERVISION.] (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a licensing action under section 245A.06 or 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

Sec. 4. Minnesota Statutes 2002, section 245B.03, is amended by adding a subdivision to read:

Subd. 3. [CONTINUITY OF CARE.] (a) When a consumer changes service to the same type of service provided under a different license held by the same license holder and the policies and procedures under section 245B.07, subdivision 8, are substantially similar, the license holder is exempt from the requirements in sections 245B.06, subdivisions 2, paragraphs (e) and (f), and 4; and 245B.07, subdivision 9, clause (2).

(b) When a direct service staff person begins providing direct service under one or more licenses other than the license for which the staff person initially received the staff orientation requirements under section 245B.07, subdivision 5, the license holder is exempt from all staff orientation requirements under section 245B.07, subdivision 5, except that:

(1) if the service provision location changes, the staff person must receive orientation regarding any policies or procedures under section 245B.07, subdivision 8, that are specific to the service provision location; and

(2) if the staff person provides direct service to one or more consumers to whom the staff person has not previously provided direct service, the staff person must review each consumer's: (i) service plans and risk management plan in accordance with section 245B.07, subdivision 5, paragraph (b), clause (1); and (ii) medication administration in accordance with section 245B.07, subdivision 5, paragraph (b), clause (6).

Sec. 5. Minnesota Statutes 2002, section 245B.06, subdivision 2, is amended to read:

Subd. 2. [RISK MANAGEMENT PLAN.] (a) The license holder must develop and, document in writing, and implement a risk management plan that incorporates the individual abuse prevention plan as required in section 245A.65 meets the requirements of this subdivision. License holders licensed under this chapter are exempt from sections 245A.65, subdivision 2, and 626.557, subdivision 14, if the requirements of this subdivision are met.

(b) The risk management plan must identify areas in which the consumer is vulnerable, based on an assessment, at a minimum, of the following areas:

(1) an adult consumer's susceptibility to physical, emotional, and sexual abuse as defined in section 626.5572, subdivision 2, and financial exploitation as defined in section 626.5572, subdivision 9; a minor consumer's susceptibility to sexual and physical abuse as defined in section 626.556, subdivision 2; and a consumer's susceptibility to self-abuse, regardless of age;

(2) the consumer's health needs, considering the consumer's physical disabilities; allergies; sensory impairments; seizures; diet; need for medications; and ability to obtain medical treatment;

(3) the consumer's safety needs, considering the consumer's ability to take reasonable safety precautions; community survival skills; water survival skills; ability to seek assistance or provide medical care; and access to toxic substances or dangerous items;

(4) environmental issues, considering the program's location in a particular neighborhood or community; the type of grounds and terrain surrounding the building; and the consumer's ability to respond to weather-related conditions, open locked doors, and remain alone in any environment; and

(5) the consumer's behavior, including behaviors that may increase the likelihood of physical aggression between consumers or sexual activity between consumers involving force or coercion, as defined under section 245B.02, subdivision 10, clauses (6) and (7).

(c) When assessing a consumer's vulnerability, the license holder must consider only the consumer's skills and abilities, independent of staffing patterns, supervision plans, the environment, or other situational elements.

(d) License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of this each license holder's risk management or the shared risk management plan. Upon initiation of services, the license holder will have in place an initial risk management plan that identifies areas in which the consumer is vulnerable, including health, safety, and environmental issues and the supports the provider will have in place to protect the consumer and to minimize these risks. The plan must be changed based on the needs of the individual consumer and reviewed at least annually. The license holder's plan must include the specific actions a staff person will take to protect the consumer and minimize risks for the identified vulnerability areas. The specific actions must include the proactive measures being taken, training being provided, or a detailed description of actions a staff person will take when intervention is needed.

(e) Prior to or upon initiating services, a license holder must develop an initial risk management plan that is, at a minimum, verbally approved by the consumer or consumer's legal representative and case manager. The license holder must document the date the license holder receives the consumer's or consumer's legal representative's and case manager's verbal approval of the initial plan.

(f) As part of the meeting held within 45 days of initiating service, as required under section 245B.06, subdivision 4, the license holder must review the initial risk management plan for accuracy and revise the plan if necessary. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in this plan review. If the license holder revises the plan, or if the consumer or consumer's legal representative and case manager have not previously signed and dated the plan, the license holder must obtain dated signatures to document the plan's approval.

(g) After plan approval, the license holder must review the plan at least annually and update the plan based on the individual consumer's needs and changes to the environment. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in the ongoing plan development. The license holder shall obtain dated signatures from the consumer or consumer's legal representative and case manager to document completion of the annual review and approval of plan changes.

Sec. 6. Minnesota Statutes 2002, section 245B.06, subdivision 5, is amended to read:

Subd. 5. [PROGRESS REVIEWS.] The license holder must participate in progress review meetings following stated time lines established in the consumer's individual service plan or as requested in writing by the consumer, the consumer's legal representative, or the case manager, at a minimum of once a year. The license holder must summarize the progress toward achieving the desired outcomes and make recommendations in a written report sent to the consumer or the consumer's legal representative and case manager prior to the review meeting. ~~For consumers under public guardianship, the license holder is required to provide quarterly written progress review reports to the consumer, designated family member, and case manager.~~

Sec. 7. Minnesota Statutes 2002, section 245B.07, subdivision 6, is amended to read:

Subd. 6. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to two percent of the number of hours the staff person worked or one percent for license holders providing semi-independent living services. Direct service staff who have worked for the license holder for an average of at least 30 hours per week for 24 or more months must annually complete hours of training equal to one percent of the number of hours the staff person worked. If direct service staff has received training from a license holder licensed under a program rule identified in this chapter or completed course work regarding disability-related issues from a post-secondary educational institute, that training may also count toward training requirements for other services and for other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

(d) For consumers requiring a 24-hour plan of care, the license holder shall provide training in cardiopulmonary resuscitation, from a qualified source determined by the commissioner, if the consumer's health needs as determined by the consumer's physician indicate trained staff would be necessary to the consumer.

Sec. 8. Minnesota Statutes 2002, section 245B.07, subdivision 9, is amended to read:

Subd. 9. [AVAILABILITY OF CURRENT WRITTEN POLICIES AND PROCEDURES.] The license holder shall:

(1) review and update, as needed, the written policies and procedures in this chapter ~~and inform~~

~~all consumers or the consumer's legal representatives, case managers, and employees of the revised policies and procedures when they affect the service provision;~~

(2) inform consumers or the consumer's legal representatives of the written policies and procedures in this chapter upon service initiation. Copies must be available to consumers or the consumer's legal representatives, case managers, the county where services are located, and the commissioner upon request; ~~and~~

(3) provide all consumers or the consumers' legal representatives and case managers a copy and explanation of revisions to policies and procedures that affect consumers' service-related or protection-related rights under section 245B.04. Unless there is reasonable cause, the license holder must provide this notice at least 30 days before implementing the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions;

(4) annually notify all consumers or the consumers' legal representatives and case managers of any revised policies and procedures under this chapter, other than those in clause (3). Upon request, the license holder must provide the consumer or consumer's legal representative and case manager copies of the revised policies and procedures;

(5) before implementing revisions to policies and procedures under this chapter, inform all employees of the revised policies and procedures; and

(6) document and maintain relevant information related to the policies and procedures in this chapter.

Sec. 9. Minnesota Statutes 2002, section 245B.08, subdivision 1, is amended to read:

Subdivision 1. [ALTERNATIVE METHODS OF DETERMINING COMPLIANCE.] (a) In addition to methods specified in chapter 245A, the commissioner may use alternative methods and new regulatory strategies to determine compliance with this section. The commissioner may use sampling techniques to ensure compliance with this section. Notwithstanding section 245A.09, subdivision 7, paragraph ~~(d)~~ (e), the commissioner may also extend periods of licensure, not to exceed five years, for license holders who have demonstrated substantial and consistent compliance with sections 245B.02 to 245B.07 and have consistently maintained the health and safety of consumers and have demonstrated by alternative methods in paragraph (b) that they meet or exceed the requirements of this section. For purposes of this section, "substantial and consistent compliance" means that during the current licensing period:

(1) the license holder's license has not been made conditional, suspended, or revoked;

(2) there have been no substantiated allegations of maltreatment against the license holder;

(3) there have been no program deficiencies that have been identified that would jeopardize the health or safety of consumers being served; and

(4) the license holder is in substantial compliance with the other requirements of chapter 245A and other applicable laws and rules.

(b) To determine the length of a license, the commissioner shall consider:

(1) information from affected consumers, and the license holder's responsiveness to consumers' concerns and recommendations;

(2) self assessments and peer reviews of the standards of this section, corrective actions taken by the license holder, and sharing the results of the inspections with consumers, the consumers' families, and others, as requested;

(3) length of accreditation by an independent accreditation body, if applicable;

(4) information from the county where the license holder is located; and

(5) information from the license holder demonstrating performance that meets or exceeds the minimum standards of this chapter.

(c) The commissioner may reduce the length of the license if the license holder fails to meet the criteria in paragraph (a) and the conditions specified in paragraph (b).

Sec. 10. [ADULT FOSTER CARE; INCREASED CAPACITY TO FIVE BEDS.]

Subdivision 1. [REQUIREMENTS.] Notwithstanding section 245A.11, subdivision 2a, paragraph (a), the commissioner may issue an adult foster care license with a capacity for five adults when the capacity is recommended by the county licensing agency of the county in which the facility is located and it is verified in the recommendation that:

(1) the facility meets the physical environment requirements of the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in one of the following:

(i) an individualized plan of care;

(ii) the individual service plan under section 256B.092, subdivision 1b, where required; or

(iii) the individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, where required; and

(3) the license holder has obtained signed informed consent from each resident or each resident's legal representative that documents the resident's informed choice to live in the home.

Subd. 2. [SUNSET.] The commissioner may not issue a new license for five adults after June 30, 2007. Programs licensed for five adults under subdivision 1 on June 30, 2007, may continue to be licensed for five adults after June 30, 2007, provided the requirements of subdivision 1 are met.

Sec. 11. [RECOMMENDATIONS REGARDING INCREASED CAPACITY FOR ADULT FOSTER CARE.]

After consultation with interested stakeholders, including representatives of county agencies, service providers, persons living in licensed adult foster care homes, including those with disabilities using home and community-based waiver services, their families, and advocacy organizations, the commissioner shall make recommendations on the size limit for family and corporate licensed adult foster care settings, propose any necessary changes in statute, and estimate any fiscal implications in order to increase housing options for persons eligible for adult foster care. The recommendations shall be provided to the chairs of the house and senate health and human services policy and finance committees and the ranking minority members by February 1, 2004.

ARTICLE 2
CONTINUING CARE

Section 1. Minnesota Statutes 2002, section 256B.0623, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them.

(a) "Adult rehabilitative mental health services" means mental health services which are rehabilitative and enable the recipient to develop and enhance psychiatric stability, social competencies, personal and emotional adjustment, and independent living and community skills, when these abilities are impaired by the symptoms of mental illness. Adult rehabilitative mental health services are also appropriate when provided to enable a recipient to retain stability and functioning, if the recipient would be at risk of significant functional decompensation or more restrictive service settings without these services.

(1) Adult rehabilitative mental health services instruct, assist, and support the recipient in areas

such as: interpersonal communication skills, community resource utilization and integration skills, crisis assistance, relapse prevention skills, health care directives, budgeting and shopping skills, healthy lifestyle skills and practices, cooking and nutrition skills, transportation skills, medication education and monitoring, mental illness symptom management skills, household management skills, employment-related skills, and transition to community living services.

(2) These services shall be provided to the recipient on a one-to-one basis in the recipient's home or another community setting or in groups.

(b) "Medication education services" means services provided individually or in groups which focus on educating the recipient about mental illness and symptoms; the role and effects of medications in treating symptoms of mental illness; and the side effects of medications. Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, physician's assistants, or registered nurses.

(c) "Transition to community living services" means services which maintain continuity of contact between the rehabilitation services provider and the recipient and which facilitate discharge from a hospital, residential treatment program under Minnesota Rules, chapter 9505, board and lodging facility, or nursing home. Transition to community living services are not intended to provide other areas of adult rehabilitative mental health services.

Sec. 2. Minnesota Statutes 2002, section 256B.0623, subdivision 4, is amended to read:

Subd. 4. [PROVIDER ENTITY STANDARDS.] (a) The provider entity must be:

~~(1) a county operated entity certified by the state; or~~

~~(2) a noncounty entity certified by the entity's host county certified by the state following the certification process and procedures developed by the commissioner.~~

(b) The certification process is a determination as to whether the entity meets the standards in this subdivision. The certification must specify which adult rehabilitative mental health services the entity is qualified to provide.

~~(c) If an entity seeks to provide services outside its host county, it~~ A noncounty provider entity must obtain additional certification from each county in which it will provide services. The additional certification must be based on the adequacy of the entity's knowledge of that county's local health and human service system, and the ability of the entity to coordinate its services with the other services available in that county. A county-operated entity must obtain this additional certification from any other county in which it will provide services.

~~(d) Recertification must occur at least every two~~ three years.

(e) The commissioner may intervene at any time and decertify providers with cause. The decertification is subject to appeal to the state. A county board may recommend that the state decertify a provider for cause.

(f) The adult rehabilitative mental health services provider entity must meet the following standards:

(1) have capacity to recruit, hire, manage, and train mental health professionals, mental health practitioners, and mental health rehabilitation workers;

(2) have adequate administrative ability to ensure availability of services;

(3) ensure adequate preservice and inservice and ongoing training for staff;

(4) ensure that mental health professionals, mental health practitioners, and mental health rehabilitation workers are skilled in the delivery of the specific adult rehabilitative mental health services provided to the individual eligible recipient;

(5) ensure that staff is capable of implementing culturally specific services that are culturally competent and appropriate as determined by the recipient's culture, beliefs, values, and language as identified in the individual treatment plan;

(6) ensure enough flexibility in service delivery to respond to the changing and intermittent care needs of a recipient as identified by the recipient and the individual treatment plan;

(7) ensure that the mental health professional or mental health practitioner, who is under the clinical supervision of a mental health professional, involved in a recipient's services participates in the development of the individual treatment plan;

(8) assist the recipient in arranging needed crisis assessment, intervention, and stabilization services;

(9) ensure that services are coordinated with other recipient mental health services providers and the county mental health authority and the federally recognized American Indian authority and necessary others after obtaining the consent of the recipient. Services must also be coordinated with the recipient's case manager or care coordinator if the recipient is receiving case management or care coordination services;

(10) develop and maintain recipient files, individual treatment plans, and contact charting;

(11) develop and maintain staff training and personnel files;

(12) submit information as required by the state;

(13) establish and maintain a quality assurance plan to evaluate the outcome of services provided;

(14) keep all necessary records required by law;

(15) deliver services as required by section 245.461;

(16) comply with all applicable laws;

(17) be an enrolled Medicaid provider;

(18) maintain a quality assurance plan to determine specific service outcomes and the recipient's satisfaction with services; and

(19) develop and maintain written policies and procedures regarding service provision and administration of the provider entity.

~~(g) The commissioner shall develop statewide procedures for provider certification, including timelines for counties to certify qualified providers.~~

Sec. 3. Minnesota Statutes 2002, section 256B.0623, subdivision 6, is amended to read:

Subd. 6. [REQUIRED TRAINING AND SUPERVISION.] (a) Mental health rehabilitation workers must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services and other areas specific to the population being served. Mental health rehabilitation workers must also be subject to the ongoing direction and clinical supervision standards in paragraphs (c) and (d).

(b) Mental health practitioners must receive ongoing continuing education training as required by their professional license; or if the practitioner is not licensed, the practitioner must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services. Mental health practitioners must meet the ongoing clinical supervision standards in paragraph (c).

(c) Clinical supervision may be provided by a full- or part-time qualified professional employed by or under contract with the provider entity. Clinical supervision may be provided by interactive

videoconferencing according to procedures developed by the commissioner. A mental health professional providing clinical supervision of staff delivering adult rehabilitative mental health services must provide the following guidance:

- (1) review the information in the recipient's file;
- (2) review and approve initial and updates of individual treatment plans;
- (3) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment topics of interest to the workers and practitioners;
- (4) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment plans of recipients, and approve by signature and document in the recipient's file any resulting plan updates;
- (5) meet at least ~~twice a month~~ monthly with the directing mental health practitioner, if there is one, to review needs of the adult rehabilitative mental health services program, review staff on-site observations and evaluate mental health rehabilitation workers, plan staff training, review program evaluation and development, and consult with the directing practitioner; and
- (6) be available for urgent consultation as the individual recipient needs or the situation necessitates; ~~and~~
- ~~(7) provide clinical supervision by full- or part-time mental health professionals employed by or under contract with the provider entity.~~

(d) An adult rehabilitative mental health services provider entity must have a treatment director who is a mental health practitioner or mental health professional. The treatment director must ensure the following:

- (1) while delivering direct services to recipients, a newly hired mental health rehabilitation worker must be directly observed delivering services to recipients by ~~the~~ a mental health practitioner or mental health professional for at least six hours per 40 hours worked during the first 160 hours that the mental health rehabilitation worker works;
- (2) the mental health rehabilitation worker must receive ongoing on-site direct service observation by a mental health professional or mental health practitioner for at least six hours for every six months of employment;
- (3) progress notes are reviewed from on-site service observation prepared by the mental health rehabilitation worker and mental health practitioner for accuracy and consistency with actual recipient contact and the individual treatment plan and goals;
- (4) immediate availability by phone or in person for consultation by a mental health professional or a mental health practitioner to the mental health rehabilitation services worker during service provision;
- (5) oversee the identification of changes in individual recipient treatment strategies, revise the plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;
- (6) model service practices which: respect the recipient, include the recipient in planning and implementation of the individual treatment plan, recognize the recipient's strengths, collaborate and coordinate with other involved parties and providers;
- (7) ensure that mental health practitioners and mental health rehabilitation workers are able to effectively communicate with the recipients, significant others, and providers; and
- (8) oversee the record of the results of on-site observation and charting evaluation and corrective actions taken to modify the work of the mental health practitioners and mental health rehabilitation workers.

(e) A mental health practitioner who is providing treatment direction for a provider entity must receive supervision at least monthly from a mental health professional to:

- (1) identify and plan for general needs of the recipient population served;
- (2) identify and plan to address provider entity program needs and effectiveness;
- (3) identify and plan provider entity staff training and personnel needs and issues; and
- (4) plan, implement, and evaluate provider entity quality improvement programs.

Sec. 4. Minnesota Statutes 2002, section 256B.0623, subdivision 8, is amended to read:

Subd. 8. [DIAGNOSTIC ASSESSMENT.] Providers of adult rehabilitative mental health services must complete a diagnostic assessment as defined in section 245.462, subdivision 9, within five days after the recipient's second visit or within 30 days after intake, whichever occurs first. In cases where a diagnostic assessment is available that reflects the recipient's current status, and has been completed within 180 days preceding admission, an update must be completed. An update shall include a written summary by a mental health professional of the recipient's current mental health status and service needs. If the recipient's mental health status has changed significantly since the adult's most recent diagnostic assessment, a new diagnostic assessment is required. For initial implementation of adult rehabilitative mental health services, until June 30, 2005, a diagnostic assessment that reflects the recipient's current status and has been completed within the past three years preceding admission is acceptable.

Sec. 5. Minnesota Statutes 2002, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. [PERSONAL CARE.] Medical assistance covers personal care assistant services provided by an individual who is qualified to provide the services according to subdivision 19a and section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by the recipient or a qualified professional. "Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285, or a licensed social worker as defined in section 148B.21. As part of the assessment, the county public health nurse will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant. The qualified professional shall perform the duties described in Minnesota Rules, part 9505.0335, subpart 4.

ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 253B.05, is amended by adding a subdivision to read:

Subd. 5. [DETOXIFICATION.] If a person is intoxicated in public and held under this section for detoxification, a treatment facility may release the person without providing notice under subdivision 3, paragraph (c), as soon as the treatment facility determines the person is no longer intoxicated. Notice must be provided to the peace officer or health officer who transported the person, or the appropriate law enforcement agency, if the officer or agency requests notification.

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

Sec. 2. [MEDICAL ASSISTANCE FOR MENTAL HEALTH SERVICES PROVIDED IN OUT-OF-HOME PLACEMENT SETTINGS.]

The commissioner of human services, in consultation with the commissioner of corrections and representatives of counties, health care providers, and other stakeholders, shall develop a plan to secure medical assistance funding for mental health-related services provided in out-of-home placement settings, including treatment foster care, group homes, and residential programs licensed under Minnesota Statutes, chapters 241 and 245A. The plan must include fiscal estimates and related information and draft legislation. Treatment foster care services must be provided by a

child placing agency licensed under Minnesota Rules, parts 9545.0755 to 9545.0845 or 9543.0010 to 9543.0150. The commissioner shall submit the plan to the legislature by January 15, 2004."

Delete the title and insert:

"A bill for an act relating to human services; expanding adult foster care; modifying continuing care provisions; amending Minnesota Statutes 2002, sections 245A.09, subdivision 7; 245A.10; 245A.11, by adding a subdivision; 245B.03, by adding a subdivision; 245B.06, subdivisions 2, 5; 245B.07, subdivisions 6, 9; 245B.08, subdivision 1; 253B.05, by adding a subdivision; 256B.0623, subdivisions 2, 4, 6, 8; 256B.0625, subdivision 19c."

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

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

S.F. No. 875: A bill for an act relating to education; providing for the department of children, families, and learning administrative amendment and repeal of certain statutory provisions relating to kindergarten through grade 12; amending Minnesota Statutes 2002, sections 12.21, subdivision 3; 120A.05, subdivision 9; 122A.63, subdivision 3; 123A.06, subdivision 3; 123A.18, subdivision 2; 123A.73, subdivisions 3, 4, 5; 123B.51, subdivisions 3, 4; 123B.57, subdivision 4; 123B.63, subdivisions 1, 2, 3, 4; 123B.91, subdivision 1; 123B.92, subdivisions 1, 3; 124D.09, subdivisions 9, 10, 16; 124D.11, subdivisions 1, 2; 124D.135, subdivision 8; 124D.16, subdivision 6; 124D.19, subdivision 3; 124D.20, subdivision 5; 124D.22, subdivision 3; 124D.454, subdivisions 2, 8, 10, by adding a subdivision; 124D.65, subdivision 5; 124D.86, subdivisions 1a, 3, 6; 125A.21, subdivision 2; 126C.10, subdivision 6; 126C.15, subdivision 1; 126C.17, subdivisions 7a, 9; 126C.21, subdivision 3; 126C.42, subdivision 1; 126C.48, subdivision 3; 126C.63, subdivisions 5, 8; 126C.69, subdivisions 2, 9; 127A.47, subdivisions 7, 8; 127A.49, subdivisions 2, 3; 128D.11, subdivision 8; 169.26, subdivision 3; 169.973, subdivision 1; 178.02, subdivision 1; 273.138, subdivision 6; 298.28, subdivision 4; 475.61, subdivision 4; Laws 1965, chapter 705, as amended; repealing Minnesota Statutes 2002, sections 123A.73, subdivisions 7, 10, 11; 123B.81, subdivision 6; 124D.65, subdivision 4; 124D.84, subdivision 2; 125A.023, subdivision 5; 125A.47; 125B.11; 126C.01, subdivision 4; 126C.14; 127A.41, subdivision 6; Laws 2001, First Special Session chapter 6, article 5, section 12, as amended; Minnesota Rules, parts 3500.0600; 3520.0400; 3520.1400; 3520.3300; 3530.1500; 3530.2700; 3530.4400; 3530.4500; 3530.4700; 3545.2100; 3545.2200; 3545.2400; 3545.2500; 3545.2600; 3545.3008; 3545.3010; 3545.3018; 3545.3020; 3550.0100.

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

Page 20, line 4, delete "4" and insert "3"

Page 20, after line 16, insert:

"**[EFFECTIVE DATE.]** This section is effective for revenue for fiscal year 2003."

Page 21, after line 5, insert:

"**[EFFECTIVE DATE.]** This section is effective for revenue for fiscal year 2003."

Page 23, lines 9 and 10, strike "lifework development" and insert "federal programs"

Page 45, line 26, delete "manager" and insert "director"

Page 48, line 2, strike "or"

page 48, strike lines 3 to 5

Page 48, line 6, strike everything before the period

Page 50, line 36, delete everything after the first semicolon

Page 51, line 1, delete everything before "and"

Amend the title as follows:

Page 1, line 36, delete "3545.2100; 3545.2200; 3545.2400;"

Page 1, delete line 37

Page 1, line 38, delete "3545.3020;"

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

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

S.F. No. 796: A bill for an act relating to human services; changing child care licensing provisions; amending Minnesota Statutes 2002, section 245A.14, subdivision 8.

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

Page 1, line 20, delete "proprietor" and insert "license holder"

Page 2, line 5, strike "report to" and insert "notify"

Page 2, line 6, strike "if they use experienced aides"

Page 2, line 7, strike the period

Page 2, lines 8 and 9, delete "Centers must also post" and insert "by posting upon enrollment the"

Page 2, line 12, delete "licensors" and insert "the commissioner"

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

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

S.F. No. 758: A bill for an act relating to civil law; reforming and recodifying the law relating to marriage dissolution, child custody, child support, maintenance, and property division; changing a fee; making style and form changes; exempting harassment restraining order actions from mandatory alternative dispute resolution requirements; providing alternate forms of marriage solemnization; modifying provisions dealing with distribution of certain pension plan assets or benefits; providing for modification of support obligations of certain persons called into active military service; modifying provisions under the child maltreatment reporting act; appropriating money; amending Minnesota Statutes 2002, sections 357.021, by adding a subdivision; 484.76, subdivision 1; 517.05; 517.18; 518.002; 518.003, subdivisions 1, 3; 518.005; 518.01; 518.02; 518.03; 518.04; 518.05; 518.055; 518.06; 518.07; 518.09; 518.091; 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1; 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, 6; 518.165; 518.166; 518.167, subdivisions 3, 4, 5; 518.168; 518.1705, subdivisions 2, 6, 7, 8, 9; 518.175; 518.1751, subdivisions 1b, 2, 2a, 2b, 2c, 3; 518.1752; 518.176; 518.177; 518.178; 518.179, subdivision 1; 518.18; 518.191, subdivision 1; 518.195, subdivisions 2, 3; 518.24; 518.25; 518.27; 518.54, subdivisions 1, 5, 6, 7, 8; 518.55; 518.552; 518.58; 518.581; 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1, 2, by adding a subdivision; 518.641; 518.642; 518.646; 518.65; 518.68, subdivision 1; 519.11, subdivision 1; 626.556, subdivisions 2, 3; proposing coding for new law as Minnesota Statutes, chapters 517A; 517B; 517C; repealing Minnesota Statutes 2002, sections 518.111; 518.14, subdivision 2; 518.17; 518.171; 518.1752; 518.185; 518.24; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.55, subdivision 4; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111;

518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; 518.62; 518.64, subdivisions 4, 4a, 5; 518.68.

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

Page 112, line 8, delete everything after "(6)" and insert "each parent's eligibility for or receipt of public assistance as defined under section 256.741, subdivision 1. A court may deviate upward from the amount of child support under the guidelines if a parent does not receive the public assistance that the parent is eligible to receive."

Page 112, delete lines 9 and 10

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

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

S.F. No. 1455: A bill for an act relating to administrative penalty orders; authorizing administrative powers, penalties, and remedies for public safety purposes; proposing coding for new law in Minnesota Statutes, chapter 299A.

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 267: A bill for an act relating to health; modifying provisions relating to emergency medical services; amending Minnesota Statutes 2002, sections 144E.01, subdivision 1; 144E.27, subdivisions 1, 2, 4; 144E.286, by adding a subdivision; 144E.305, subdivision 2; 144E.41; 144E.50, subdivisions 5, 6; repealing Minnesota Statutes 2002, sections 144E.01, subdivision 3; 144E.286, subdivisions 1, 2; Minnesota Rules, parts 4690.1500, subpart 3; 4690.7900, subpart 6.

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

Pages 6 to 8, delete sections 8 and 9

Page 9, line 33, delete "11" and insert "9"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, delete "144E.50, subdivisions 5, 6;"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1071: A bill for an act relating to health; modifying definition of cremation; amending Minnesota Statutes 2002, section 149A.02, 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 2002, section 149A.02, is amended by adding a subdivision to read:

Subd. 1a. [ALKALINE HYDROLYSIS.] "Alkaline hydrolysis" means the reduction of a dead human body to essential elements through exposure to a combination of heat and alkaline hydrolysis and the repositioning or movement of the body during the process to facilitate reduction, the processing of the remains after removal from the alkaline hydrolysis chamber, placement of the processed remains in a remains container, and release of the remains to an appropriate party. Alkaline hydrolysis is a form of final disposition.

Sec. 2. [149A.015] [ALKALINE HYDROLYSIS.]

For purposes of this chapter, the disposal of a dead human body through the process of alkaline hydrolysis shall be subject to the same licensing requirements and regulations that apply to cremation, crematories, and cremated remains as described in this chapter. The licensing requirements and regulations of this chapter shall also apply to the entities where the process of alkaline hydrolysis occurs and to the remains that result from the alkaline hydrolysis process."

Amend the title as follows:

Page 1, line 2, delete "modifying definition of cremation" and insert "applying licensure regulations and requirements to the alkaline hydrolysis process"

Page 1, line 4, delete "subdivision 9" and insert "by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 149A"

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

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

S.F. No. 448: A bill for an act relating to health; modifying regulatory requirements and standards for nursing facilities; amending Minnesota Statutes 2002, sections 144A.04, subdivision 3, by adding a subdivision; 144A.10, by adding a subdivision; 256B.434, subdivision 10; repealing Minnesota Statutes 2002, sections 256B.0915, subdivision 7; 256B.439; 256B.69, subdivision 6a.

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 2002, section 144A.04, subdivision 3, is amended to read:

Subd. 3. [STANDARDS.] (a) The facility must meet the minimum health, sanitation, safety and comfort standards prescribed by the rules of the commissioner of health with respect to the construction, equipment, maintenance and operation of a nursing home. The commissioner of health may temporarily waive compliance with one or more of the standards if the commissioner determines that:

(a) (1) temporary noncompliance with the standard will not create an imminent risk of harm to a nursing home resident; and

(b) (2) a controlling person on behalf of all other controlling persons:

(1) (i) has entered into a contract to obtain the materials or labor necessary to meet the standard set by the commissioner of health, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to meet the standard is due solely to that failure; or

(2) (ii) is otherwise making a diligent good faith effort to meet the standard.

The commissioner shall make available to other nursing homes information on facility-specific waivers that are granted. The commissioner shall, upon the request of a facility, extend a waiver granted to a specific facility to other similarly situated facilities, if the commissioner determines that these facilities also satisfy clauses (1) and (2) and any other terms and conditions of the waiver.

The commissioner of health shall allow, by rule, a nursing home to provide fewer hours of nursing care to intermediate care residents of a nursing home than required by the present rules of the commissioner if the commissioner determines that the needs of the residents of the home will be adequately met by a lesser amount of nursing care.

(b) A facility is not required to seek a waiver for room furniture or equipment under paragraph (a) when responding to resident-specific requests if the facility has discussed health and safety concerns with the resident and the resident request and discussion of health and safety concerns are documented in the resident's patient record.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 2. Minnesota Statutes 2002, section 144A.04, is amended by adding a subdivision to read:

Subd. 11. [INCONTINENT RESIDENTS.] Notwithstanding Minnesota Rules, part 4658.0520, an incontinent resident must be checked according to a specific time interval written in the resident's care plan. The resident's attending physician must authorize in writing any interval longer than two hours unless the resident, if competent, or a family member or legally appointed conservator, guardian, or health care agent of a resident who is not competent, agrees in writing to waive physician involvement in determining this interval, and this waiver is documented in the resident's care plan.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 3. Minnesota Statutes 2002, section 256B.434, subdivision 10, is amended to read:

Subd. 10. [EXEMPTIONS.] (a) To the extent permitted by federal law, (1) a facility that has entered into a contract under this section is not required to file a cost report, as defined in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the basis for the calculation of the contract payment rate for the first rate year of the alternative payment demonstration project contract; and (2) a facility under contract is not subject to audits of historical costs or revenues, or paybacks or retroactive adjustments based on these costs or revenues, except audits, paybacks, or adjustments relating to the cost report that is the basis for calculation of the first rate year under the contract.

(b) A facility that is under contract with the commissioner under this section is not subject to the moratorium on licensure or certification of new nursing home beds in section 144A.071, unless the project results in a net increase in bed capacity or involves relocation of beds from one site to another. Contract payment rates must not be adjusted to reflect any additional costs that a nursing facility incurs as a result of a construction project undertaken under this paragraph. In addition, as a condition of entering into a contract under this section, a nursing facility must agree that any future medical assistance payments for nursing facility services will not reflect any additional costs attributable to the sale of a nursing facility under this section and to construction undertaken under this paragraph that otherwise would not be authorized under the moratorium in section 144A.073. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project under this section from seeking approval of an exception to the moratorium through the process established in section 144A.073, and if approved the facility's rates shall be adjusted to reflect the cost of the project. Nothing in this section prevents a nursing facility participating in the alternative payment demonstration project from seeking legislative approval of an exception to the moratorium under section 144A.071, and, if enacted, the facility's rates shall be adjusted to reflect the cost of the project.

(c) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e), and pursuant to any terms and conditions contained in the facility's contract, a nursing facility that is under

contract with the commissioner under this section is in compliance with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.

(d) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing administration has not approved a required waiver, or the Centers for Medicare and Medicaid Services otherwise requires cost reports to be filed prior to the waiver's approval, the commissioner shall require a cost report for the rate year.

(e) A facility that is under contract with the commissioner under this section shall be allowed to change therapy arrangements from an unrelated vendor to a related vendor during the term of the contract. The commissioner may develop reasonable requirements designed to prevent an increase in therapy utilization for residents enrolled in the medical assistance program.

(f) A facility that has entered a contract under this section must either participate in the quality improvement program established by the commissioner, or submit information on its own quality improvement process for the commissioner's approval. A nursing facility choosing the latter must report annually on results for at least one key area.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 4. [IMPOSITION OF FEDERAL CERTIFICATION REMEDIES.]

The commissioner of health shall pursue changes in federal policy that mandate the imposition of federal sanctions without providing an opportunity to correct deficiencies solely as the result of previous deficiencies issued to a facility.

[EFFECTIVE DATE.] This section is effective July 1, 2003."

Delete the title and insert:

"A bill for an act relating to health; modifying regulatory requirements and standards for nursing facilities; amending Minnesota Statutes 2002, sections 144A.04, subdivision 3, by adding a subdivision; 256B.434, subdivision 10."

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

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

S.F. No. 1344: A bill for an act relating to education; providing for kindergarten through grade 12 general education, special programs, educational excellence and other policy, and nutrition; providing for family and early childhood education; amending Minnesota Statutes 2002, sections 84A.51, subdivision 4; 119A.52; 119B.011, subdivisions 5, 15, 19, by adding a subdivision; 119B.02, subdivision 1; 119B.03, subdivision 9; 119B.05, subdivision 1; 119B.08, subdivision 3; 119B.11, subdivision 2a; 119B.12, subdivision 2; 119B.13, subdivision 6; 119B.19, subdivision 7; 119B.21, subdivision 11; 119B.23, subdivision 3; 120A.24, subdivision 4; 121A.21; 121A.23, subdivision 1; 121A.41, subdivision 10; 122A.414, by adding a subdivision; 122A.415, subdivision 3; 123B.88, subdivision 2; 124D.081, by adding a subdivision; 124D.09, subdivision 20; 124D.10, subdivisions 2a, 4; 124D.118, subdivisions 1, 3; 124D.13, subdivisions 4, 8; 124D.15, subdivision 7; 124D.16, subdivision 1; 124D.52, subdivision 3; 125A.023, subdivision 3; 125A.03; 125A.08; 125A.28; 125A.30; 126C.05, subdivision 16; 126C.17, subdivision 11; 256.046, subdivision 1; 256.0471, subdivision 1; 256.98, subdivision 8; 475.61, subdivisions 1, 3; 611A.78, subdivision 1; 626.556, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 119B; 124D; repealing Minnesota Statutes 2002, sections 15.014, subdivision 3; 119A.08; 119A.15, subdivision 5a; 124D.118, subdivision 2; 124D.93; 125A.47; 144.401, subdivision 5; 239.004; Laws 2001, First Special Session chapter 3, article 1, section 16.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2002, section 84A.51, subdivision 4, is amended to read:

Subd. 4. [COUNTY'S USE OF FUNDS.] The funds received by each county must be apportioned by the county auditor as follows:

(1) 30 percent to a county development fund, which is created, to be spent under the direction of the county board for the rehabilitation and development of the portion of the county within the conservation area;

(2) 40 percent to the ~~capital-outlay~~ general fund of the school district from which derived;

(3) 20 percent to the county revenue fund; and

(4) ten percent to the township road and bridge fund of the township from which derived.

If the proceeds are derived from an unorganized township with no levy for road and bridge purposes, the township portion must be credited to the county revenue fund.

Sec. 2. Minnesota Statutes 2002, section 123B.88, subdivision 2, is amended to read:

Subd. 2. [VOLUNTARY SURRENDER OF TRANSPORTATION PRIVILEGES.] The parent or guardian of a ~~secondary~~ student may voluntarily surrender the ~~secondary~~ student's to and from school transportation privileges granted under subdivision 1.

Sec. 3. Minnesota Statutes 2002, section 124D.09, subdivision 20, is amended to read:

Subd. 20. [TEXTBOOKS; MATERIALS.] All textbooks and equipment provided to a pupil, and paid for under subdivision 13, are the property of the pupil's ~~school district of residence~~ postsecondary institution. Each pupil is required to return all textbooks and equipment to the ~~district postsecondary institution~~ postsecondary institution after the course has ended.

Sec. 4. Minnesota Statutes 2002, 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. The advisory council is composed of seven 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:

(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) ~~review charter school applications and recommend approving or disapproving the applications; and~~

(7) 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.

(b) The charter school advisory council under this subdivision expires June 30, ~~2003~~ 2007.

Sec. 5. Minnesota Statutes 2002, section 124D.10, subdivision 16, is amended to read:

Subd. 16. [TRANSPORTATION.] (a) By July 1 of each year, a charter school must notify the district in which the school is located and the department of children, families, and learning if it will provide transportation for pupils enrolled in the school for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Sec. 6. Minnesota Statutes 2002, section 124D.52, subdivision 3, is amended to read:

Subd. 3. [ACCOUNTS; REVENUE; AID.] (a) Each district, group of districts, or private nonprofit organization providing adult basic education programs must establish and maintain accounts separate from all other district accounts for the receipt and disbursement of all funds related to these programs. All revenue received pursuant to this section must be utilized solely for the purposes of adult basic education programs. State aid must not equal more than 100 percent of the unreimbursed expenses of providing these programs, excluding in-kind costs.

(b) Notwithstanding section 123A.26 or any other law to the contrary, an adult basic education consortium providing an approved adult basic education program may be its own fiscal agent and is eligible to receive state-aid payments directly from the commissioner.

Sec. 7. Minnesota Statutes 2002, section 126C.05, subdivision 16, is amended to read:

Subd. 16. [FREE AND REDUCED PRICED LUNCHES.] The commissioner shall determine the number of children eligible to receive either a free or reduced priced lunch on October 1 each year. Children enrolled in a building on October 1 and determined to be eligible to receive free or reduced price lunch by ~~January~~ December 15 of ~~the following~~ that year shall be counted as eligible on October 1 for purposes of subdivision 3. The commissioner may use federal definitions for these purposes and may adjust these definitions as appropriate. The commissioner may adopt reporting guidelines to assure accuracy of data counts and eligibility. Districts shall use any guidelines adopted by the commissioner.

Sec. 8. Minnesota Statutes 2002, section 475.61, subdivision 1, is amended to read:

Subdivision 1. [DEBT SERVICE RESOLUTION.] The governing body of any municipality

issuing general obligations shall, prior to delivery of the obligations, levy by resolution a direct general ad valorem tax upon all taxable property in the municipality to be spread upon the tax rolls for each year of the term of the obligations. The tax levies for all years for municipalities other than school districts shall be specified and such that if collected in full they, together with estimated collections of special assessments and other revenues pledged for the payment of said obligations, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the obligations. The tax levies for school districts shall be specified and such that if collected in full they, together with estimated collection of other revenues pledged for the payment of the obligations, will produce ~~between five and six~~ percent in excess of the amount needed to meet when due the principal and interest payments on the obligations, rounded up to the nearest dollar; except that, with the permission of the commissioner of children, families, and learning, a school board may specify a tax levy in a higher amount if necessary either to meet an anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund. Such resolution shall irrevocably appropriate the taxes so levied and any special assessments or other revenues so pledged to the municipality's debt service fund or a special debt service fund or account created for the payment of one or more issues of obligations. The governing body may, in its discretion, at any time after the obligations have been authorized, adopt a resolution levying only a portion of such taxes, to be filed, assessed, extended, collected, and remitted as hereinafter provided, and the amount or amounts therein levied shall be credited against the tax required to be levied prior to delivery of the obligations.

Sec. 9. Minnesota Statutes 2002, section 475.61, subdivision 3, is amended to read:

Subd. 3. [IRREVOCABILITY.] (a) Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

(b) For purposes of this subdivision, "excess debt redemption fund balance" means the greater of zero or the balance in the district's debt redemption fund as of June 30 of the fiscal year ending in the year before the year the levy is certified, minus any debt redemption fund balance attributable to refunding of existing bonds, minus the amount of the levy reduction for the current year and the prior year under paragraphs (e) and (f), minus five percent of the district's required debt service levy for the next year.

(c) By July 15 each year, a district shall report to the commissioner of children, families, and learning the amount of the districts' debt redemption fund balance as of June 30 of the prior year attributable to refunding of existing bonds.

(d) By August 15 each year, the commissioner shall determine the excess debt redemption fund balance for each school district, and shall certify the amount of the excess balance to the school district superintendent.

(e) In each year when a district has an excess debt redemption fund balance, the commissioner shall ~~report the amount of the excess to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified.~~

(f) The school board may, with the approval of the commissioner, retain all or part of the excess balance if it is necessary to ensure the prompt and full payment of its obligations and any call premium on its obligations, will be used for redemption of its obligations in accordance with their terms, or to level out the debt service tax rate, excluding the debt excess adjustment, for its obligations over the next two years. A school district requesting authority to retain all or part of the excess balance shall provide written documentation to the commissioner describing the rationale for its request by September 15 including the issuance of new obligations within the next year or the refunding of existing obligations. A school district that retains an excess may request to transfer the excess to its operating capital account in the general fund under section 123B.80. The school board may, with the approval of the commissioner, specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

(g) If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of money actually on hand or if there is on

hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

ARTICLE 2

EDUCATIONAL EXCELLENCE AND OTHER POLICY

Section 1. Minnesota Statutes 2002, section 13.485, is amended by adding a subdivision to read:

Subd. 5. [SCHOOL DISTRICT CONTRACTS.] Financial statements submitted by certain contractors with school districts are classified under section 574.26.

Sec. 2. Minnesota Statutes 2002, section 120A.24, subdivision 4, is amended to read:

Subd. 4. [REPORTS TO THE STATE.] A superintendent must make an annual report to the commissioner of children, families, and learning. The report must include the following information:

(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;

(2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and

(3) ~~the names, ages, and addresses~~ number of children whom in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.

Sec. 3. Minnesota Statutes 2002, section 120B.35, is amended by adding a subdivision to read:

Subd. 5. [IMPROVING GRADUATION RATES FOR STUDENTS WITH EMOTIONAL OR BEHAVIORAL DISORDERS.] (a) A district must develop strategies in conjunction with parents of students with emotional or behavioral disorders and the county board responsible for implementing sections 245.487 to 245.4888 to keep students with emotional or behavioral disorders in school, when the district has a drop-out rate for students with an emotional or behavioral disorder exceeding 25 percent.

(b) A district must develop a plan in conjunction with parents of students with emotional or behavioral disorders and the local mental health authority to increase the graduation rates of students with emotional or behavioral disorders. A district with a drop-out rate for children with an emotional or behavioral disturbance in the top 25 percent of all districts shall submit a plan for review and oversight to the commissioner.

Sec. 4. Minnesota Statutes 2002, section 121A.55, is amended to read:

121A.55 [POLICIES TO BE ESTABLISHED.]

(a) The commissioner of children, families, and learning shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) The commissioner shall actively encourage and assist school districts to cooperatively establish alternative educational services within school buildings or at alternative program sites that offer instruction to pupils who are dismissed from school for willfully engaging in dangerous, disruptive, or violent behavior, including for possessing a firearm in a school zone.

(d) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education plan from school grounds.

Sec. 5. Minnesota Statutes 2002, section 121A.61, subdivision 3, is amended to read:

Subd. 3. [POLICY COMPONENTS.] The policy must include at least the following components:

- (a) rules governing student conduct and procedures for informing students of the rules;
- (b) the grounds for removal of a student from a class;
- (c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;
- (d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;
- (e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;
- (f) provisions relating to the responsibility for and custody of a student removed from a class;
- (g) the procedures for return of a student to the specified class from which the student has been removed;
- (h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;
- (i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;
- (j) any procedures determined appropriate for encouraging early detection of behavioral problems;
- (k) any procedures determined appropriate for referring a student in need of special education services to those services;
- (l) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individual education plan of a student with a disability who is removed from class;
- (m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;
- (n) the minimum consequences for violations of the code of conduct;
- (o) procedures for immediate and appropriate interventions tied to violations of the code; ~~and~~
- (p) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section 121A.582 and other laws; and
- (q) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections 245.487 to 245.4888 for students with a serious emotional disturbance or other students who have an individualized education plan whose behavior may be addressed by crisis intervention.

Sec. 6. Minnesota Statutes 2002, section 121A.64, is amended to read:

121A.64 [NOTIFICATION; TEACHERS' LEGITIMATE EDUCATIONAL INTEREST.]

(a) A classroom teacher has a legitimate educational interest in knowing which students placed in the teacher's classroom have a history of violent behavior and must be notified before such students are placed in the teacher's classroom.

(b) Representatives of the school board and the exclusive representative of the teachers shall discuss issues related to notification prior to placement the model policy on student records adopted under Laws 1999, chapter 241, article 9, section 50, and any modifications adopted under this act for notifying classroom teachers and other school district employees having a legitimate educational interest in knowing about students with a history of violent behavior placed in classrooms of students with histories of violent behavior and any. The representatives of the school board and the exclusive representative of the teachers also may discuss the need for intervention services or conflict resolution or training for staff in these cases related to placing students with a history of violent behavior in teachers' classrooms.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 7. Minnesota Statutes 2002, section 122A.09, subdivision 4, is amended to read:

Subd. 4. [LICENSE AND RULES.] (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a post-secondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a post-secondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring successful completion of an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective on the dates determined by the board but not later than September 1, 2001.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law.

(n) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

Sec. 8. Minnesota Statutes 2002, section 122A.22, is amended to read:

122A.22 [DISTRICT RECORDING OF TEACHER LICENSES; DISPLAY.]

No person shall be accounted a qualified teacher until the person has filed for record with the district superintendent where the person intends to teach a license, or certified copy of a license, authorizing the person to teach school in the district school system. In addition, licensed teachers must prominently display a copy of their license or credential in their instructional area or office.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 9. [122A.34] [CREDENTIAL FOR EDUCATION PARAPROFESSIONALS.]

Subdivision 1. [RULEMAKING.] The board of teaching must adopt rules to implement a statewide credential for education paraprofessionals who assist a licensed teacher in providing student instruction.

Subd. 2. [TRAINING POSSIBILITIES.] In adopting rules under subdivision 1, the board must consider including provisions that provide paraprofessionals with training in students' characteristics, supporting the teaching and learning environment, academic instructional skills, managing student behavior, and ethical practices.

Subd. 3. [INITIAL TRAINING.] Prior to supervising or working with students, each paraprofessional will receive initial training in emergency procedures, confidentiality, vulnerability, reporting obligations, discipline policies, roles and responsibilities, and a building orientation.

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

Sec. 10. Minnesota Statutes 2002, section 122A.414, is amended by adding a subdivision to read:

Subd. 3. [REPORT.] Participating districts and school sites must report on the implementation and effectiveness of the alternative teacher compensation plan, particularly addressing each requirement under section 122A.44, subdivision 2, and make recommendations biannually by January 1 to their school boards. The school boards shall transmit a summary of the findings and recommendations of their district to the commissioner.

Sec. 11. Minnesota Statutes 2002, section 122A.415, subdivision 3, is amended to read:

Subd. 3. [AID TIMING.] (a) Districts or sites with approved applications must receive alternative compensation aid for each school year that the district or site participates in the program as described in this subdivision. Districts or sites with applications received by the commissioner before June 1 of the first year of a two-year contract shall receive compensation aid for both years of the contract. Districts or sites with applications received by the commissioner after June 1 of the first year of a two-year contract shall receive compensation aid only for the second year of the contract. The commissioner must approve initial applications for school districts qualifying under subdivision 1, paragraph (b), clause (1), by January 15 of each year. If any money remains, the commissioner must approve aid amounts for school districts qualifying under subdivision 1, paragraph (b), clause (2), by February 15 of each year.

(b) The commissioner shall select applicants that qualify for this program, notify school districts and school sites about the program, develop and disseminate application materials, and carry out other activities needed to implement this section.

Sec. 12. [123B.025] [SCHOOL SPONSORSHIP AND ADVERTISING REVENUE.]

Subdivision 1. [BOARD AUTHORITY; CONTRACTS.] A school board may enter into a contract with advertisers, sponsors, or others regarding advertising and naming rights to school facilities under the general charge of the district. A contract authorized under this section must be approved by the school board. The powers granted to a school board under this section are in addition to any other authority the school district may have.

Subd. 2. [AUTHORIZED AGREEMENTS.] A school district may enter into a contract to:

(1) lease the naming rights for school facilities, including school buildings, ice arenas, and stadiums;

(2) sell advertising on or in the facilities listed in clause (1); and

(3) otherwise enter into an agreement with a sponsoring agent.

Subd. 3. [REVENUE USES.] Revenue generated under this section must be used according to a plan specified by the school board.

Sec. 13. Minnesota Statutes 2002, 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. After 90 days, the applicant may apply to the commissioner. If a board elects not to sponsor a charter school, the applicant may appeal the board's decision to the commissioner. The commissioner may elect to sponsor the charter school or assist the applicant in finding an eligible sponsor. 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 and operate a school, the sponsor must file an affidavit with the commissioner stating its intent to authorize a charter school. The affidavit must state the terms and conditions under which the sponsor would authorize a charter school. The commissioner must approve or disapprove the sponsor's proposed authorization within 60 days of receipt of the affidavit. Failure to obtain commissioner approval precludes a sponsor from authorizing the charter school that was the subject of the affidavit.

(c) 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 until a timely election for members of the charter school board of directors is held according to the school's articles and

bylaws. 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 of children enrolled in the school may participate in the election for 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. Board of director meetings must comply with chapter 13D.

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

(e) A sponsor may authorize the operators 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 as approved by the commissioner only after submitting a supplemental application to the commissioner in a form and manner prescribed by the commissioner. The supplemental application must provide evidence that:

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

(2) the charter school is fiscally sound;

(3) the sponsor supports the expansion; and

(4) the building of the additional site meets all health and safety requirements to be eligible for lease aid.

(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.

Sec. 14. Minnesota Statutes 2002, section 124D.454, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of this section is to provide a method to fund ~~transition~~ career and technical education programs for children with a disability that are components of the learner's transition plan. As used in this section, the term "children with a disability" shall have the meaning ascribed to it in section 125A.02.

Sec. 15. Minnesota Statutes 2002, section 124D.454, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" for fiscal year 1996 means fiscal year 1995. Base year for later fiscal years means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.00 for fiscal year 1998 and later.

(e) "Aid percentage factor" means 60 percent for fiscal year 1996, 70 percent for fiscal year 1997, 80 percent for fiscal year 1998, 90 percent for fiscal year 1999, and 100 percent for fiscal year 2000 and later.

(f) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12, paragraph (c).

Sec. 16. Minnesota Statutes 2002, section 124D.454, subdivision 3, is amended to read:

Subd. 3. [BASE REVENUE.] (a) ~~The transition program disabled transition-disabled program~~ base revenue equals the sum of the following amounts computed using base year data:

(1) 68 percent of the salary of each essential licensed person or approved paraprofessional who provides direct instructional services to students employed during that fiscal year for services rendered in that district's transition program for children with a disability;

(2) 47 percent of the costs of necessary equipment for transition programs for children with a disability;

(3) 47 percent of the costs of necessary travel between instructional sites by transition program teachers of children with a disability but not including travel to and from local, regional, district, state, or national ~~vocational~~ career and technical student organization meetings;

(4) 47 percent of the costs of necessary supplies for transition programs for children with a disability but not to exceed an average of \$47 in any one school year for each child with a disability receiving these services;

(5) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, in place of programs provided by the district, 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the fraction of the school day the pupil receives services under the contract;

(6) for transition programs for children with disabilities provided by a contract approved by the commissioner with public, private, or voluntary agencies other than a Minnesota school district or cooperative center, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract; and

(7) for a contract approved by the commissioner with another Minnesota school district or cooperative center for vocational evaluation services for children with a disability for children that are not yet enrolled in grade 12, 52 percent of the amount of the contract.

(b) If requested by a school district for transition programs during the base year for less than the full school year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full year.

Sec. 17. Minnesota Statutes 2002, section 124D.454, is amended by adding a subdivision to read:

Subd. 12. [COMPLIANCE WITH RULES.] (a) Aid must be paid under this section only for services rendered or for costs incurred in career and technical education programs approved by the commissioner and operated in accordance with rules promulgated by the commissioner. This aid shall be paid only for services rendered and for costs incurred by essential, licensed personnel who

meet the requirements for licensure pursuant to the rules of the Minnesota board of teaching or paraprofessionals approved by the division of lifework development in the department of children, families, and learning.

(b) Notwithstanding section 127A.42, the commissioner may modify or withdraw the program or aid approval and withhold aid under this section without proceeding under section 127A.42 at any time. To do so, the commissioner must determine that the program does not comply with the rules of the department of children, families, and learning or that any facts concerning the program or its budget differ from the facts in the district's approved application.

(c) For the purposes of paragraph (a), "licensed personnel" means persons holding a valid career and technical license issued by the commissioner. If an average of five or fewer secondary full-time equivalent students are enrolled per teacher in an approved postsecondary program at intermediate district No. 287, 916, or 917, licensed personnel means persons holding a valid vocational license issued by the commissioner or the board of trustees of the Minnesota state colleges and universities.

Sec. 18. Minnesota Statutes 2002, section 126C.17, subdivision 11, is amended to read:

Subd. 11. [REFERENDUM DATE.] (a) Except for a referendum held under paragraph (b), any referendum under this section held on a day other than the first Tuesday after the first Monday in November must be conducted by mail in accordance with section 204B.46. Notwithstanding subdivision 9, paragraph (b), to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by subdivision 9, paragraph (b), must be prepared and delivered by first-class mail at least 20 days before the referendum.

(b) In addition to the referenda allowed in subdivision 9, clause (a), the commissioner may grant authority to a district to hold a referendum on a different day if the district is in statutory operating debt and has an approved plan ~~or has received an extension from the department to file a plan~~ to eliminate the statutory operating debt.

(c) The commissioner must approve, deny, or modify each district's request for a referendum levy on a different day within 60 days of receiving the request from a district.

Sec. 19. Minnesota Statutes 2002, section 128C.05, is amended by adding a subdivision to read:

Subd. 1a. [SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.] Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that was used for a high school diving program during the 2000-2001 school year may be used for supervised competitive high school diving unless a pool that meets the requirements of Minnesota Rules, part 4717.3750, is located within the school district. A school or district using a pool for supervised competitive high school diving that does not meet the requirements of the rule must provide appropriate notice to parents and participants.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

Sec. 20. Minnesota Statutes 2002, section 574.26, subdivision 2, is amended to read:

Subd. 2. [TERMS.] (a) Except as provided in sections 574.263 and 574.264 or if the amount of the contract is \$75,000 or less, a contract with a public body for the doing of any public work is not valid unless the contractor gives (1) a performance bond to the public body with whom the contractor entered into the contract, for the use and benefit of the public body to complete the contract according to its terms, and conditioned on saving the public body harmless from all costs and charges that may accrue on account of completing the specified work, and (2) a payment bond for the use and benefit of all persons furnishing labor and materials engaged under, or to perform the contract, conditioned for the payment, as they become due, of all just claims for the labor and materials.

(b) In the case of contracts to create, develop, provide, or maintain student information systems, finance systems, Web pages, ISP systems, human resources and payroll systems, other software, network services, and Internet services, for \$25,000 or more, a contract with a school board is not

valid unless (1) the contractor demonstrates in its quotation, proposal, or bid its financial ability to complete the contract by providing financial statements to that effect, and (2) if so required by the school board in its specifications or request for proposals, the contractor provides a performance bond for the use and benefit of the school board to complete the contract according to its terms, and conditioned on saving the school board harmless from all costs and charges that may accrue on account of completing the specified work. Financial statements submitted under this paragraph are private data on individuals or nonpublic data as defined in section 13.02.

(c) Reasonable attorneys' attorney fees, costs, and disbursements may be awarded in an action to enforce claims under the act if the action is successfully maintained or successfully appealed.

Sec. 21. Minnesota Statutes 2002, section 611A.78, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] A crime victim services roundtable is created and shall be convened by the commissioner of administration or a designee. The roundtable membership shall include representatives from the following: the departments of health; human services; ~~children, families, and learning~~; corrections; and public safety; the supreme court; the Minnesota planning agency; the office of the attorney general; the office of crime victim ombudsman; the county attorneys association; and the office of dispute resolution. The roundtable membership shall also include one person representing the four councils designated in sections 3.922, 3.9223, 3.9225, and 3.9226.

Sec. 22. [CHARTER SCHOOL ADVISORY BOARD MEMBER TERMS.]

In order to establish staggered terms for charter school advisory board members under Minnesota Statutes, section 124D.10, subdivision 2a, the commissioner of children, families, and learning shall, by lot, determine the length of term for each member serving on the board on the effective date of this section. One-third of the members shall serve a one-year term, one-third shall serve a two-year term, and one-third shall serve a three-year term. Thereafter, the term for each member must be three years.

Sec. 23. [PILOT PROJECT TO EVALUATE PARENT INVOLVEMENT POLICIES AND STRATEGIES.]

Subdivision 1. [DISTRICT AND SCHOOL SITE POLICY EVALUATION.] A school board may elect to participate in a two-year pilot project to evaluate parent involvement policies and strategies in the district and in school sites, with the goal of improving the academic achievement of all students within the district, including at-risk students. Participating districts and school sites must establish parent involvement review committees consistent with subdivision 2, and may adapt the parent involvement policy and process described in United States Code, title 20, section 6319, for purposes consistent with this project.

Subd. 2. [PARENT INVOLVEMENT REVIEW COMMITTEES.] A school board electing to participate and interested school sites within that district must establish a parent involvement review committee or expand the purview of an existing committee composed of a majority of parents. The committees must evaluate the effectiveness of district and school site programs and strategies intended to provide all parents with meaningful opportunities to participate in the process of educating students. The committees, among other things, may evaluate the operation of the instruction and curriculum advisory committee or building team under Minnesota Statutes, section 120B.11, or parent involvement programs developed under Minnesota Statutes, section 124D.895. A majority of committee members must be parents of students enrolled in the district or school site, if applicable. The committee also must include teachers employed by the district and who teach at a school site, if applicable. A district must assist participating school sites at the request of the school site.

Subd. 3. [NOTICE OF PARTICIPATION; NOTICE TO PARENTS.] (a) A school board electing to participate under this section must notify the commissioner of children, families, and learning of its participation and the participation of interested school sites on a form supplied by the commissioner. The commissioner may assist participating districts and school sites at the request of the district or school site.

(b) Participating school districts must transmit timely effective notice of this project to parent organizations throughout the district and to parents of children enrolled in district schools.

Subd. 4. [REPORT.] Participating districts and school sites must report the findings of the evaluation and related recommendations annually by March 1 to the school board, which shall transmit a summary of the findings and recommendations to the commissioner. Information the commissioner receives under this subdivision may be used to modify guidelines and model plans for parent involvement programs under Minnesota Statutes, section 124D.895.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to the 2003-2004 and 2004-2005 school years.

Sec. 24. [POLICY ON STUDENTS WITH A HISTORY OF VIOLENT BEHAVIOR.]

(a) Representatives of the Minnesota school boards association, Education Minnesota, and the information policy analysis division in the Minnesota department of administration shall develop a model policy by August 1, 2003, on notifying classroom teachers and other school district employees having a legitimate educational interest when a student with a history of violent behavior is placed in the teacher's classroom. The model policy at least must:

(1) define what constitutes a history of violent behavior, consistent with Minnesota Statutes, section 121A.45, subdivision 2, clause (c);

(2) limit reports on violent behavior to a specified number of school years;

(3) define "legitimate educational interest," consistent with Minnesota Statutes, section 121A.64;

(4) indicate the persons at the school or district level who determine which school district employees have a legitimate educational interest; and

(5) require school districts that transfer the student records of a student with a history of violent behavior to another school district, charter school, or alternative education program to include all information about the student's history of violent behavior in the student's educational records it transmits to the enrolling school district, charter school, or alternative education program, consistent with this policy.

(b) The information policy analysis division in the Minnesota department of administration by August 15, 2003, must post on its division Web site the model policy developed under paragraph (a).

(c) The task force in paragraph (a) expires on August 1, 2003.

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

Sec. 25. [FINANCIAL ANALYSIS; CONTRACTS.]

(a) The commissioner of children, families, and learning shall submit to the chair of the senate education committee, the chair of the senate E-12 education budget division, the chair of the house of representatives education policy committee, and the chair of the house of representatives education finance committee before January 15, 2004, a detailed financial analysis and report that provides the following information:

(1) the total amount of projected additional costs associated with the No Child Left Behind Act of 2001 compliance for the state of Minnesota and local school districts during the fiscal year 2004 and fiscal year 2005 biennium;

(2) the amount of new federal funds that are reasonably expected to be provided to the state of Minnesota and local school districts during the fiscal year 2004 and fiscal year 2005 biennium for the costs identified in clause (1); and

(3) the financial consequences to the state of Minnesota and each individual school district of noncompliance with the No Child Left Behind Act of 2001.

(b) The proposed consolidated state plan to be submitted by May 1, 2003, or any other contract or agreement under the provisions of the No Child Left Behind Act of 2001, shall include a notification that any commitment by the department of children, families, and learning to the federal Department of Education on implementing the No Child Left Behind Act of 2001 shall expire on June 1, 2004, unless legislation affirming the implementation of the act is enacted before that date. If the consolidated state plan, or any other contract or agreement, does not include the notification, the plan or any other contract or agreement shall be revoked.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to existing agency contracts or agreements.

Sec. 26. [REPEALER.]

Minnesota Statutes 2002, sections 124D.93 and 126C.125, are repealed.

[EFFECTIVE DATE.] This section is effective for the 2003-2004 school year and later.

ARTICLE 3 SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2002, section 121A.41, subdivision 10, is amended to read:

Subd. 10. [SUSPENSION.] "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.09, subdivision 3, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a student with a disability, the student's individual education plan team must meet immediately but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team and other qualified personnel shall at that meeting: conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

- (1) the parent requests a meeting;
- (2) the student is removed from the student's current placement for five or more consecutive days; or
- (3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

Sec. 2. Minnesota Statutes 2002, section 124D.081, is amended by adding a subdivision to read:

Subd. 9. [RESERVE ACCOUNT.] First grade preparedness revenue must be placed in a reserve account within the general fund and may only be used for first grade preparedness programs at qualifying school sites.

Sec. 3. [124D.452] [DISTRICT REPORT; CAREER AND TECHNICAL EDUCATION.]

Each district and cooperative center must report data to the department of children, families, and learning for all career and technical education programs as required by the department.

Sec. 4. Minnesota Statutes 2002, section 125A.03, is amended to read:

125A.03 [SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.]

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state education code means a free and appropriate public education provided to an eligible child with disabilities and includes special education and related services defined in the Individuals with Disabilities Education Act, subpart A, section 300.24.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until July 1 after the child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

Sec. 5. [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 public agency 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.] 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 hearing officer, after conducting an impartial due process hearing initiated by the district, may override the refusal of a parent to consent to an initial evaluation or reevaluation.

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. 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 by the district. 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. 9a. [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.

Subd. 10. [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. 11. [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.

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

Subd. 12. [HEARING OFFICER QUALIFICATIONS.] The commissioner must appoint an individual who is qualified under this subdivision to serve as a hearing officer. 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. 13. [REQUEST FOR HEARING.] A request for a due process hearing must:

- (1) be in writing;
- (2) describe the nature of the issue about providing special education services to the student including facts relating to the issue; 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.

Subd. 14. [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. 15. [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.

Subd. 16. [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. 17. [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 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.

Subd. 18. [EXPEDITED DUE PROCESS HEARINGS.] A parent has the right to 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 an interim alternative educational setting or seeking to maintain placement in an interim alternative educational setting. A hearing officer must issue an expedited due process hearing decision within ten calendar days of the request for a

hearing. A hearing officer may extend an expedited due process hearing up to five additional calendar days. All policies in this section apply to expedited due process hearings to the extent they do not conflict with federal law.

Subd. 19. [HEARING OFFICER'S DECISION; TIME PERIOD.] (a) The hearing officer must render a decision within 45 calendar days of the date on which the commissioner receives the hearing request. 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.

Subd. 20. [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 has 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. 21. [CHILD'S EDUCATIONAL PLACEMENT DURING A DUE PROCESS HEARING.] 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. Until a proceeding 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 until the expiration of the 45 days permitted for an interim alternative educational setting, whichever occurs first, unless the parent and district agree otherwise.

Subd. 22. [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 23 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. 23. [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. 24. [ENFORCEMENT OF ORDERS.] The commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer orders.

Subd. 25. [HEARING OFFICER AND PERSONS 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. 26. [HEARING OFFICER TRAINING.] A hearing officer must participate in training and follow procedures established by the commissioner.

Subd. 27. [DISTRICT LIABILITY.] A district is not liable for harmless technical violations of this section or rules implementing this section if the school district can demonstrate on a case-by-case basis that the violations did not harm a student's educational progress or a parent's or guardian's right to notice, participation, or due process.

Sec. 6. [DEPARTMENT RESPONSIBILITY.]

By January 1, 2004, the commissioner must adopt rules that:

(1) establish criteria for selecting hearing officers, the standards of conduct to which a hearing officer must adhere, and a process to evaluate the hearing system;

(2) ensure that appropriately trained and knowledgeable persons conduct due process hearings in compliance with federal law; and

(3) create standards for expedited due process hearings under federal law.

By March 1, 2004, the commissioner must develop and make available a notice for participants in state-provided dispute resolution processes that informs participants of their rights concerning dispute resolution.

Sec. 7. [REPEALER.]

Minnesota Statutes 2002, sections 15.014, subdivision 3; 125A.09; and 239.004, are repealed.

ARTICLE 4

FAMILY AND EARLY CHILDHOOD EDUCATION

Section 1. Minnesota Statutes 2002, section 119A.52, is amended to read:

119A.52 [DISTRIBUTION OF APPROPRIATION AND PROGRAM COORDINATION.]

Subdivision 1. [DISTRIBUTION OF APPROPRIATION; WORK PLAN.] (a) The commissioner of children, families, and learning must distribute money appropriated for that purpose to Head Start program grantees to expand services and to serve additional low-income children. Money must be allocated to each project Head Start grantee in existence on the effective date of Laws 1989, chapter 282. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A Head Start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20, 22, and 25 at the start of the fiscal year. In allocating funds under this paragraph, the commissioner of children, families, and learning must assure that each Head Start grantee is allocated no less funding in any fiscal year than was allocated to that grantee in fiscal year 1993. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner must notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must ~~notify~~ present a work plan to the commissioner of. The work plan must include the estimated number of low-income children and families it will be able to serve, a description of the program design and service delivery area which meets the needs of and encourages access by low-income working families, a program design that ensures fair and equitable access to Head Start services for all populations and parts of the service area, and a plan for coordinating services to maximize assistance for child care costs available to

families under chapter 119B. For any grantee that cannot utilize its full allocation, the commissioner must reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local Head Start agencies to provide funds for innovative programs designed either to target Head Start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal Head Start regulations. The commissioner must award funds for innovative programs under this paragraph on a competitive basis.

Subd. 2. [PROGRAM COORDINATION.] Each Head Start grantee must submit a plan, as part of the work plan requirement in subdivision 1, to coordinate and maximize use of existing public and private community resources and reduce duplication of services.

Sec. 2. Minnesota Statutes 2002, section 121A.21, is amended to read:

121A.21 [SCHOOL HEALTH SERVICES.]

(a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

(1) employ personnel, including at least one full-time equivalent licensed school nurse ~~or continue to employ a registered nurse not yet certified as a public health nurse as defined in section 145A.02, subdivision 18, who is enrolled in a program that would lead to certification within four years of August 1, 1988;~~

(2) contract with a public or private health organization or another public agency for personnel during the regular school year, determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or

(3) enter into another arrangement approved by the commissioner.

Sec. 3. Minnesota Statutes 2002, section 121A.23, subdivision 1, is amended to read:

Subdivision 1. [SEXUALLY TRANSMITTED INFECTIONS AND DISEASES PROGRAM.] The commissioner of children, families, and learning, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including but not exclusive to human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

(1) planning materials, guidelines, and other technically accurate and updated information;

(2) a comprehensive, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage;

(3) cooperation and coordination among districts and SCs;

(4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;

(5) involvement of parents and other community members;

(6) in-service training for appropriate district staff and school board members;

(7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;

(8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and

(9) participation by state and local student organizations.

~~The department may provide assistance at a neutral site to a nonpublic school participating in a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.~~

~~If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.~~

Sec. 4. Minnesota Statutes 2002, section 124D.13, subdivision 4, is amended to read:

Subd. 4. [HOME VISITING PROGRAM.] ~~(a) The commissioner~~ A district that levies for home visiting under section 124D.135, subdivision 6, shall use this revenue to include as part of the early childhood family education programs a parent education component to prevent child abuse and neglect. This parent education component must include:

~~(1) expanding statewide the home visiting component of the early childhood family education programs;~~

~~(2) training parent educators, child educators, community outreach workers, and home visitors in the dynamics of child abuse and neglect and positive parenting and discipline practices; and~~

~~(3) developing and disseminating education and public information materials that promote positive parenting skills and prevent child abuse and neglect.~~

~~(b) The parent education component must:~~

~~(1) offer to isolated or at-risk families home visiting parent education services that at least address parenting skills, a child's development and stages of growth, communication skills, managing stress, problem-solving skills, positive child discipline practices, methods of improving parent-child interactions and enhancing self-esteem, using community support services and other resources, and encouraging parents to have fun with and enjoy their children;~~

~~(2) develop a that is designed to reach isolated or at-risk families.~~

The home visiting program must:

~~(1) use an established risk assessment tool to determine the family's level of risk;~~

~~(3) (2) establish clear objectives and protocols for home visits;~~

~~(4) determine the frequency and duration of home visits based on a risk-need assessment of the client, with home visits beginning in the second trimester of pregnancy and continuing, based on client need, until a child is six years old;~~

~~(5) (3) encourage families to make a transition from home visits to site-based parenting programs to build a family support network and reduce the effects of isolation;~~

~~(6) develop and distribute education materials on preventing child abuse and neglect that may be used in home visiting programs and parent education classes and distributed to the public;~~

~~(7) initially provide at least 40 hours of training and thereafter ongoing training for parent educators, child educators, community outreach workers, and home visitors that covers the dynamics of child abuse and neglect, domestic violence and victimization within family systems, signs of abuse or other indications that a child may be at risk of being abused or neglected, what child abuse and neglect are, how to properly report cases of child abuse and neglect, respect for cultural preferences in child rearing, what community resources, social service agencies, and~~

~~family support activities and programs are available, child development and growth, parenting skills, positive child discipline practices, identifying stress factors and techniques for reducing stress, home visiting techniques, and risk assessment measures;~~

(8) (4) provide program services that are community-based, accessible, and culturally relevant; and

(9) (5) foster collaboration among existing agencies and community-based organizations that serve young children and their families.

(e) Home visitors should reflect the demographic composition of the community ~~the home visitor is serving~~ to the extent possible.

Sec. 5. Minnesota Statutes 2002, section 124D.13, subdivision 8, is amended to read:

Subd. 8. [COORDINATION.] ~~(a) A district is encouraged to coordinate the program with its special education and vocational education programs and with related services provided by other governmental agencies and nonprofit agencies must describe strategies to coordinate and maximize public and private community resources and reduce duplication of services.~~

(b) A district is encouraged to coordinate adult basic education programs provided to parents and early childhood family education programs provided to children to accomplish the goals of section 124D.895.

Sec. 6. Minnesota Statutes 2002, section 124D.15, subdivision 7, is amended to read:

Subd. 7. [ADVISORY COUNCIL.] Each school readiness program must have an advisory council composed of members of existing early education-related boards, parents of participating children, child care providers, culturally specific service organizations, local resource and referral agencies, local early intervention committees, and representatives of early childhood service providers. The council must advise the board in creating and administering the program and must monitor the progress of the program. The council must ensure that children at greatest risk receive appropriate services. If the board is unable to appoint to the advisory council members of existing early education-related boards, it must appoint parents of children enrolled in the program who represent the racial, cultural, and economic diversity of the district and representatives of early childhood service providers as representatives to an existing advisory council.

Sec. 7. Minnesota Statutes 2002, section 124D.16, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM REVIEW AND APPROVAL.] A school district shall biennially by May 1 submit to the commissioners of children, families, and learning and health the program plan required under this subdivision. As determined by the commissioners, one-half of the districts shall first submit the plan by May 1 of the 2000-2001 school year and one-half of the districts shall first submit the plan by May 1 of the 2001-2002 school year. The program plan must include:

(1) a description of the services to be provided;

(2) a plan to ensure children at greatest risk receive appropriate services;

(3) a description of procedures and methods to be used strategies to coordinate and maximize public and private community resources to maximize use of existing community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development, to coordinate school readiness with existing community-based programs and service providers to foster collaboration among agencies and other community-based programs that provide flexible, family-focused services to families with young children, and to facilitate the transition to kindergarten. These existing programs and providers include child care programs, child care resource and referral programs, early childhood family education, Head Start, local interagency early intervention committees, special education services, early childhood screening, and other education services and programs to the extent possible. The district must describe a method to share information, responsibility, and accountability among service and program providers;

(4) comments about the district's proposed program by the advisory council required by section 124D.15, subdivision 7; and

(5) agreements with all participating service providers.

Each commissioner may review and comment on the program, and make recommendations to the commissioner of children, families, and learning, within 30 90 days of receiving the plan.

Sec. 8. Minnesota Statutes 2002, section 125A.023, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section and section 125A.027, the following terms have the meanings given them:

(a) "Health plan" means:

(1) a health plan under section 62Q.01, subdivision 3;

(2) a county-based purchasing plan under section 256B.692;

(3) a self-insured health plan established by a local government under section 471.617; or

(4) self-insured health coverage provided by the state to its employees or retirees.

(b) For purposes of this section, "health plan company" means an entity that issues a health plan as defined in paragraph (a).

(c) "Individual interagency intervention plan" means a standardized written plan describing those programs or services and the accompanying funding sources available to eligible children with disabilities.

(d) "Interagency intervention service system" means a system that coordinates services and programs required in state and federal law to meet the needs of eligible children with disabilities ages three to 21, including:

(1) services provided under the following programs or initiatives administered by state or local agencies:

(i) the maternal and child health program under title V of the Social Security Act, United States Code, title 42, sections 701 to 709;

(ii) the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33, subchapter II, sections 1411 to 1420;

(iii) medical assistance under the Social Security Act, United States Code, title 42, chapter 7, subchapter XIX, section 1396, et seq.;

(iv) the Developmental Disabilities Assistance and Bill of Rights Act, United States Code, title 42, chapter 75, subchapter II, sections 6021 to 6030, Part B;

(v) the Head Start Act, United States Code, title 42, chapter 105, subchapter II, sections 9831 to 9852;

(vi) rehabilitation services provided under chapter 268A;

(vii) Juvenile Court Act services provided under sections 260.011 to 260.91; 260B.001 to 260B.446; and 260C.001 to 260C.451;

(viii) the children's mental health collaboratives under section 245.493;

(ix) the family service collaboratives under section 124D.23;

(x) the family community support plan under section 245.4881, subdivision 4;

- (xi) the MinnesotaCare program under chapter 256L;
 - (xii) the community health services grants under chapter 145;
 - (xiii) the Community Social Services Act funding under the Social Security Act, United States Code, title 42, sections 1397 to 1397f; ~~and~~
 - (xiv) the community transition interagency committees under section 125A.22;
 - (xv) the child care assistance program under chapter 119B; and
 - (xvi) services offered through the child care resource and referral programs under chapter 119B;
- (2) services provided under a health plan in conformity with an individual family service plan or an individual education plan; and
- (3) additional appropriate services that local agencies and counties provide on an individual need basis upon determining eligibility and receiving a request from the interagency early intervention committee and the child's parent.
- (e) "Children with disabilities" has the meaning given in section 125A.02.
- (f) A "standardized written plan" means those individual services or programs available through the interagency intervention service system to an eligible child other than the services or programs described in the child's individual education plan or the child's individual family service plan.

Sec. 9. Minnesota Statutes 2002, section 125A.28, is amended to read:

125A.28 [STATE INTERAGENCY COORDINATING COUNCIL.]

An interagency coordinating council of at least 17, but not more than 25 members is established, in compliance with Public Law Number 102-119, section 682. The members must be appointed by the governor. Council members must elect the council chair. The representative of the commissioner may not serve as the chair. The council must be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, five representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, local Head Start director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, children, families, and learning, health, human services, a representative from the state agency responsible for child care, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council must meet at least quarterly.

The council must address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with disabilities and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

By September 1, the council must recommend to the governor and the commissioners of children, families, and learning, health, human services, commerce, and economic security policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the state interagency coordinating council expires on June 30, ~~2003~~ 2005.

Sec. 10. Minnesota Statutes 2002, section 125A.30, is amended to read:

125A.30 [INTERAGENCY EARLY INTERVENTION COMMITTEES.]

(a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, must establish an interagency early intervention committee for children with disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local ~~and regional~~ health, education, and county human service agencies, county boards, school boards, early childhood family education programs, Head Start, parents of young children with disabilities under age 12, child care resource and referral agencies, school readiness programs, current service providers, and may also include representatives from other private or public agencies and school nurses. The committee must elect a chair from among its members and must meet at least quarterly.

(b) The committee must develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families of available programs and services;

(2) implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities and their families;

(3) establish and evaluate the identification, referral, child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(5) encourage agencies to develop individual family service plans for children with disabilities, age three and older;

(6) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(7) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services;

(8) identify the current services and funding being provided within the community for children with disabilities under age five and their families;

(9) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law Number 89-313); and

(10) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public.

(c) The local committee shall also:

(1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families; and

(2) review and comment on the early intervention section of the total special education system for the district, the county social service plan, the section or sections of the community health services plan that address needs of and service activities targeted to children with special health care needs, the section on children with special needs in the county child care fund plan, sections in Head Start plans on coordinated planning and services for children with special needs, any relevant portions of early childhood education plans, such as early childhood family education or school readiness, or other applicable coordinated school and community plans for early childhood programs and services, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities.

Sec. 11. [REPEALER.]

Minnesota Statutes 2002, sections 119A.08; 125A.47; and 144.401, subdivision 5, are repealed."

Delete the title and insert:

"A bill for an act relating to education; providing for kindergarten through grade 12 general education, special programs, educational excellence and other policy, and nutrition; providing for family and early childhood education; allowing supervised competitive high school diving occurring in pools built before January 1, 1987; providing for a financial analysis of the costs associated with the No Child Left Behind Act of 2001 and other miscellaneous education policy; amending Minnesota Statutes 2002, sections 13.485, by adding a subdivision; 84A.51, subdivision 4; 119A.52; 120A.24, subdivision 4; 120B.35, by adding a subdivision; 121A.21; 121A.23, subdivision 1; 121A.41, subdivision 10; 121A.55; 121A.61, subdivision 3; 121A.64; 122A.09, subdivision 4; 122A.22; 122A.414, by adding a subdivision; 122A.415, subdivision 3; 123B.88, subdivision 2; 124D.081, by adding a subdivision; 124D.09, subdivision 20; 124D.10, subdivisions 2a, 4, 16; 124D.13, subdivisions 4, 8; 124D.15, subdivision 7; 124D.16, subdivision 1; 124D.454, subdivisions 1, 2, 3, by adding a subdivision; 124D.52, subdivision 3; 125A.023, subdivision 3; 125A.03; 125A.28; 125A.30; 126C.05, subdivision 16; 126C.17, subdivision 11; 128C.05, by adding a subdivision; 475.61, subdivisions 1, 3; 574.26, subdivision 2; 611A.78, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 122A; 123B; 124D; 125A; repealing Minnesota Statutes 2002, sections 15.014, subdivision 3; 119A.08; 124D.93; 125A.09; 125A.47; 126C.125; 144.401, subdivision 5; 239.004."

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

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

S.F. No. 1462: A bill for an act relating to civil action; regulating actions involving fault; regulating actions involving certain insurance practices; amending Minnesota Statutes 2002, sections 604.01, subdivision 1; 604.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 604.

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

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2002, section 13.43, subdivision 16, is amended to read:

Subd. 16. [SCHOOL DISTRICT OR CHARTER SCHOOL DISCLOSURE OF VIOLENCE OR INAPPROPRIATE SEXUAL CONTACT.] ~~With the written, informed consent of the subject of the data,~~ The superintendent of a school district or the superintendent's designee, or a person having administrative control of a charter school, must release to a requesting school district or

charter school private personnel data on a current or former employee related to documented acts of violence toward or sexual contact with a student, if an investigation conducted by or on behalf of the school district or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data. Nothing in this subdivision affects or restricts the general requirements of this chapter governing the release of private data with the informed consent of the subject.

Sec. 2. Minnesota Statutes 2002, section 181.961, subdivision 1, is amended to read:

Subdivision 1. [RIGHT TO REVIEW; FREQUENCY.] Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record only once at any time within one each year after separation for as long as the personnel record is maintained.

Sec. 3. [181.967] [EMPLOYMENT REFERENCES.]

Subdivision 1. [DEFINITIONS.] For purposes of this section:

(1) "employee" means a person who performs services for hire and includes an officer of a corporation;

(2) "employer" means a person who has one or more employees and includes a designated employee or agent who discloses information on behalf of an employer;

(3) "personnel record" has the meaning given in section 181.960;

(4) "private employer" means an employer that is not a government entity, as defined in section 13.02; and

(5) "public employer" means an employer that is a government entity, as defined in section 13.02.

Subd. 2. [CAUSES OF ACTION LIMITED.] No action may be maintained against an employer by an employee or former employee for the disclosure of information listed in subdivisions 3 to 5 about the employee to a prospective employer or employment agency as provided under this section, unless the employee or former employee demonstrates by clear and convincing evidence that:

(1) the information was false and defamatory; and

(2) the employer knew or should have known the information was false and acted with malicious intent to injure the current or former employee.

Subd. 3. [EMPLOYMENT REFERENCE INFORMATION DISCLOSURE BY PRIVATE EMPLOYERS.] (a) Subdivision 2 applies to the disclosure of the following information by a private employer in response to a request for the information:

(1) dates of employment;

(2) compensation and wage history;

(3) job description and duties;

(4) training and education provided by the employer; and

(5) acts of violence, theft, harassment, or illegal conduct documented in the personnel record that resulted in disciplinary action or resignation and the employee's written response, if any, contained in the employee's personnel record.

A disclosure under clause (5) must be in writing with a copy sent contemporaneously by regular mail to the employee's last known address.

(b) With the written authorization of the current or former employee, subdivision 2 also applies to the written disclosure of the following information by a private employer:

(1) written employee evaluations conducted before the employee's separation from the employer, and the employee's written response, if any, contained in the employee's personnel record;

(2) written disciplinary warnings and actions in the five years before the date of the authorization, and the employee's written response, if any, contained in the employee's personnel record; and

(3) written reasons for separation from employment.

The employer must contemporaneously provide the employee or former employee with a copy of information disclosed under this paragraph and to whom it was disclosed by mailing the information to the employee or former employee.

(c) A prospective employer or employment agency shall not disclose written information received under this section without the written authorization of the employee.

Subd. 4. [DISCLOSURE OF PERSONNEL DATA BY PUBLIC EMPLOYER.] Subdivision 2 applies to the disclosure of all public personnel data and to the following private personnel data under section 13.43 by a public employer if the current or former employee gives written consent to the release of the private data:

(1) written employee evaluations conducted before the employee's separation from the employer, and the employee's written response, if any, contained in the employee's personnel record; and

(2) written reasons for separation from employment.

Subd. 5. [SCHOOL DISTRICT DISCLOSURE OF VIOLENCE OR INAPPROPRIATE SEXUAL CONTACT.] (a) Subdivision 2 applies to a disclosure by the superintendent of a school district or the superintendent's designee, or a person having administrative control of a charter school, to another school district or charter school of: (1) public personnel data under section 13.43, subdivision 2, relating to acts of violence toward or inappropriate sexual contact with a student that resulted in disciplinary action; and (2) private personnel data under section 13.43, subdivision 16.

(b) A disclosure under this subdivision must be in writing with a copy sent contemporaneously by regular mail to the employee's last known address.

Subd. 6. [APPLICATION; RELATION TO OTHER LAW.] (a) This section does not affect the availability of other limitations on liability under common law.

(b) This section does not apply to an action involving an alleged violation of chapter 363 or other statute.

(c) This section does not diminish or impair the rights of a person under a collective bargaining agreement."

Page 2, line 1, strike "jointly" and insert "severally"

Page 3, delete lines 16 and 17 and insert "liable for costs, damages, and reasonable attorney's fees."

Page 3, line 18, after "APPLICATION" insert "; EFFECTIVE DATE"

Page 3, line 19, before "Section" insert "(a)" and delete "2" and insert "5"

Page 3, line 20, delete "3" and insert "6"

Page 3, after line 22, insert:

"(b) Section 3 is effective August 1, 2003, and applies to disclosures of information made on or after that date."

Reorder the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing protection for disclosure of job reference information; requiring disclosure of data between school districts and charter schools relating to acts of violence or inappropriate sexual contact with students; regulating the right of an employee to inspect personnel records concerning the employee;"

Page 1, line 5, before "604.01," insert "13.43, subdivision 16; 181.961, subdivision 4;"

Page 1, line 7, delete "chapter" and insert "chapters 181;"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Anderson from the Committee on Commerce and Utilities, to which was referred

S.F. No. 1400: A bill for an act relating to taxation; regulating tax preparers; establishing consumer protections; providing enforcement authority; proposing coding for new law in Minnesota Statutes, chapter 270.

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

Delete everything after the enacting clause and insert:

"Section 1. [270.30] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 270.30 to 270.303, the terms defined in this section have the meanings given them.

Subd. 2. [CLIENT.] "Client" means an individual for whom a tax preparer performs or agrees to perform tax preparation services.

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

Subd. 4. [CONFIDENTIAL INFORMATION.] "Confidential information" means information furnished to a tax preparer by a client for, or in connection with, the preparation of a client's individual income tax or business return.

Subd. 5. [DEPARTMENT.] "Department" means the department of revenue.

Subd. 6. [FAMILY MEMBER.] "Family member" means spouse, parent, grandparent, child, or sibling.

Subd. 7. [FINANCIAL INSTITUTION.] "Financial institution" means a lending institution chartered by an agency of the federal government or regulated by the commissioner of commerce.

Subd. 8. [NONPUBLIC PERSONAL INFORMATION.] "Nonpublic personal information" means personally identifiable information provided by a client to a tax preparer resulting from any transaction or any service performed.

Subd. 9. [PERSON.] "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.

Subd. 10. [TAX PREPARATION BUSINESS.] "Tax preparation business" means a corporation, partnership, association, or other entity that directly employs or otherwise has a business arrangement with two or more tax preparers.

Subd. 11. [TAX PREPARATION SERVICES.] "Tax preparation services" means the services provided by a tax preparer for a fee or other consideration, which include, but are not limited to, assisting with or preparing individual income tax or business returns for a client, assuming final responsibility for completed work on an individual income tax or business return on which preliminary work has been done by another, offering to assist with or prepare an individual income tax or business return, and offering or providing loans, on behalf of a tax preparer or a financial institution, in anticipation of and for which payment is intended to be a client's tax refund or federal or state tax credit.

Subd. 12. [TAX PREPARER.] "Tax preparer" means a person who provides tax preparation services for a fee or other consideration.

Sec. 2. [270.301] [REQUIREMENTS OF TAX PREPARERS.]

Subdivision 1. [FEES.] No tax preparer or tax preparation business shall:

- (1) charge a fee that has no reasonable relation to the services provided;
- (2) charge a fee for a service where the service is not actually provided;
- (3) misrepresent the amount charged by or paid to a third party for a service;
- (4) charge, offer to accept, or accept a contingent fee for tax preparation services;

(5) charge, offer to accept, or accept a fee for electronically filing a client's individual income tax or business return that is related to or calculated as a percentage of a client's refund or a loan offered or provided to a client, on behalf of the tax preparer or a financial institution, in anticipation of and for which payment is intended to be a client's refund or federal or state tax credit; or

- (6) fail to completely itemize all charges for tax preparation services.

Subd. 2. [STANDARDS OF CONDUCT.] No tax preparer or tax preparation business shall:

- (1) fail to promptly, diligently, and without unreasonable delay complete a client's tax return;
- (2) obtain the signature of a client to a tax return or authorizing document that contains blank spaces to be filled in after it has been signed;

- (3) fail to sign a client's tax return when payment for services rendered has been made;

(4) fail or refuse to give a client a copy of any document requiring the client's signature within a reasonable time after the client signs the document;

(5) fail to retain for at least four years a copy of individual income tax returns and for at least seven years a copy of business returns;

(6) fail to maintain a confidential relationship between themselves and their clients or former clients;

- (7) fail to safeguard a client's nonpublic personal information;

(8) make, authorize, or cause to make, either directly or indirectly, any false, deceptive, or misleading statement or representation, whether oral, written, or recorded by any means, in connection with the offering or provision of tax preparation services;

(9) make, publish, disseminate, circulate, place before the public, or cause to be made, directly or indirectly, any advertisement or marketing materials of any type, or any statement or

representation relating to the offering or provision of tax preparation services that is false, deceptive, misleading;

(10) include in a contract any provision that requires, or requires in any other way, a client to assert any claim or defense in a forum that is less convenient, more costly, or more dilatory for the resolution of the dispute than a judicial forum established in this state where the client may otherwise properly bring a claim or defense, or limits in any way any claim or defense the borrower may have;

(11) require a taxpayer to enter into a loan arrangement in order to complete a tax return;

(12) file a tax return, electronically or otherwise, on behalf of a client, or clients if a joint return, without first obtaining each client's signature on the tax return; or

(13) claim credits or deductions on a client's tax return for which the tax preparer knows or should know the taxpayer does not qualify.

Subd. 3. [DISCLOSURES.] (a) Prior to entering into any oral or written agreement to provide tax preparation services, a tax preparer or tax preparation business offering to make or making loans, on behalf of the tax preparer or a financial institution, in anticipation of and for which payment is intended to be a client's tax refund or federal or state tax credit shall provide in writing, on a single sheet of paper, separate from any other written document or oral statement, and shall orally read to a prospective client the following statement: "You may be eligible for FREE tax preparation services. For information about free tax preparation services, contact the Minnesota Department of Revenue at (651) 297-3724." It is the obligation of the tax preparer to ensure that the telephone number provided for the department is current.

(b) Prior to entering into any oral or written agreement to provide a loan, on behalf of the tax preparer or a financial institution, in anticipation of and for which payment is intended to be a client's tax refund or federal or state tax credit, a tax preparer or tax preparation business shall provide in writing, on a single sheet of paper, separate from any other written document or oral statement, to a prospective client, a notice containing:

(1) a legend, centered at the top of the single sheet of paper, in bold, capital letters, and in 28-point type stating "WARNING"; and

(2) the following verbatim statements in capital and small type, in a minimum of 14-point type, with at least a double space between each line in the statement and four spaces between each statement:

(i) This is a loan. The annual percentage rate (APR) is (fill in APR).

(ii) Your refund will be reduced by (fill in appropriate number) percent or \$(fill in appropriate number of dollars) due to fees, interest, and other charges.

(iii) You can get your refund in about two weeks if you file your return electronically and have the IRS send your refund to your own bank account. You do not need to pay for a loan to get your money quickly.

(iv) If you choose to take this loan and your refund is delayed, you may have to pay additional interest.

(c) The notice must be signed and dated by the tax preparer and the client or clients if a joint return.

Sec. 3. [270.302] [ENFORCEMENT.]

Subdivision 1. [CIVIL PENALTIES.] The commissioner may bring an enforcement action against any person who has violated this chapter, and, after appropriate notice and hearing and upon a finding that a tax preparer or tax preparation business has violated any of the provisions of section 270.301, may impose an administrative penalty of not more than \$10,000 for each

violation. Demonstration by the commissioner of a pattern and practice of violation shall establish a rebuttable presumption that the violation for which the commissioner is bringing an action was not due to unintentional error.

Subd. 2. [CIVIL ACTIONS.] (a) Any violation of this chapter constitutes an unfair, deceptive, and unlawful trade practice within the meaning of section 8.31.

(b) A client may bring a civil action seeking redress for a violation of this chapter in the district court of the county wherein the unlawful action or practice is alleged to have been committed or where the respondent resides or has a principal place of business.

(c) A court finding for the plaintiff shall award actual damages, including incidental and consequential damages, reasonable attorney fees, court costs, and any other equitable relief as the court considers appropriate.

Subd. 3. [ASSIGNEE LIABILITY.] Any person who purchases or is otherwise assigned rights granted under a contract entered into in connection with tax preparation services is subject to all affirmative claims and any defenses with respect to the loan that the borrower could assert against the seller or assignor.

Subd. 4. [ACTION BY OTHER OVERSIGHT BODIES.] Nothing in this chapter should be construed to constrain disciplinary or other action from being taken by the Minnesota state board of accountancy, the Minnesota lawyers professional responsibility board, or any other entity that has oversight responsibility over persons providing tax preparation services.

Sec. 4. [270.303] [EXEMPTIONS.]

Sections 270.30 to 270.302, except for section 270.301, subdivision 3, do not apply to:

- (1) an attorney admitted to practice law in this state pursuant to section 481.01;
- (2) a certified public accountant holding a certificate issued pursuant to section 326A.04 or a person issued a permit to practice under section 326A.05;
- (3) a person designated as a registered accounting practitioner under Minnesota Rules, part 1106.6600;
- (4) an enrolled agent who has passed the special enrollment examination administered by the Internal Revenue Service;
- (5) any person who, as part of the regular clerical duties of employment, prepares income, sales, or payroll tax returns for an employer;
- (6) any person who provides, for a fee or valuable consideration, tax preparation services for fewer than six clients in a calendar year;
- (7) any person who provides tax preparation services for a family member; and
- (8) while acting as such, any fiduciary, or the regular employees of a fiduciary, acting on behalf of the fiduciary estate, the testator, trustor, grantor, or beneficiaries thereof."

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

SECOND READING OF SENATE BILLS

S.F. Nos. 1045, 1158, 568, 1123, 722, 717, 814, 634, 1185, 1062, 910, 887, 1182, 443, 796, 1071 and 448 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 419 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Sams moved that the name of Senator Frederickson be added as a co-author to S.F. No. 390. The motion prevailed.

Senator Marty moved that the name of Senator Tomassoni be added as a co-author to S.F. No. 1194. The motion prevailed.

Senator Scheid moved that the name of Senator Ortman be added as a co-author to S.F. No. 1245. The motion prevailed.

Senator Marty moved that the name of Senator Dibble be added as a co-author to S.F. No. 1328. The motion prevailed.

Senator Kleis moved that the names of Senators Reiter, Day and Neuville be added as co-authors to S.F. No. 1427. The motion prevailed.

Senator Neuville moved that the name of Senator Ourada be added as a co-author to S.F. No. 1449. The motion prevailed.

Senator Pogemiller moved that S.F. No. 1401 be withdrawn from the Committee on State and Local Government Operations and re-referred to the Committee on Taxes. The motion prevailed.

Senator Murphy moved that S.F. No. 340 be withdrawn from the Committee on Commerce and Utilities and returned to its author. The motion prevailed.

Senator Murphy moved that H.F. No. 741, No. 11 on the Consent Calendar, be stricken and laid on the table. The motion prevailed.

Senator Murphy moved that his name be stricken as a co-author to S.F. No. 187. The motion prevailed.

Senator Foley moved that S.F. No. 823 be withdrawn from the Committee on Finance and re-referred to the Committee on Taxes. The motion prevailed.

Senator Robling moved that S.F. No. 910, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Bakk introduced--

S.F. No. 1463: A bill for an act relating to telecommunications; establishing Minnesota rural communications infrastructure fund and appropriating money for providing low-interest loans and grants to communications infrastructure projects in rural Minnesota; imposing a fee on wireless telephone service; providing ten-year sunset date; proposing coding for new law in Minnesota Statutes, chapter 237.

Referred to the Committee on Commerce and Utilities.

Senators Neuville and Foley introduced--

S.F. No. 1464: A bill for an act relating to crime prevention; providing for lifetime supervision of certain repeat sex offenders released from prison; amending Minnesota Statutes 2002, section 609.109, subdivision 7.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Pogemiller and Cohen introduced--

S.F. No. 1465: A bill for an act relating to taxation; eliminating the authority of the state auditor to enforce the tax increment financing laws; amending Minnesota Statutes 2002, sections 469.175, subdivisions 5, 6; 469.1771, subdivisions 1, 2a; repealing Minnesota Statutes 2002, sections 469.177, subdivision 11; 469.1771, subdivision 2b.

Referred to the Committee on Taxes.

Senators Berglin, Dibble, Higgins, Skoglund and Ranum introduced--

S.F. No. 1466: A bill for an act relating to capital improvements; authorizing issuance of state bonds; appropriating money for grants to the city of Minneapolis to pay the principal on the city's bonds for the Minneapolis Convention Center and related facilities and for the Target Center.

Referred to the Committee on Finance.

Senators Michel, Larson and Langseth introduced--

S.F. No. 1467: A bill for an act relating to retirement; authorizing a prior service credit purchase in the public employees police and fire plan.

Referred to the Committee on State and Local Government Operations.

Senator Cohen introduced--

S.F. No. 1468: A bill for an act relating to education finance; broadening the health and safety program to include school safety costs associated with student support services; amending Minnesota Statutes 2002, section 123B.57, subdivisions 1, 2.

Referred to the Committee on Finance.

Senator Pogemiller introduced--

S.F. No. 1469: A bill for an act relating to taxation; providing an exemption from sales tax for construction materials for the Guthrie Theater; amending Minnesota Statutes 2002, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Berglin introduced--

S.F. No. 1470: A bill for an act relating to state government; adjusting certain appropriations.

Referred to the Committee on Finance.

Senator Nienow introduced--

S.F. No. 1471: A bill for an act relating to border city development zones; authorizing the city of Taylors Falls and the town of Franconia to establish zones and exercise border city development zone powers.

Referred to the Committee on Taxes.

Senators Kubly, Murphy, Frederickson and Johnson, D.E. introduced--

S.F. No. 1472: A bill for an act relating to taxation; providing a tax credit to Minnesota dairy operators that achieve superior herd health, high herd average production, and high quality milk; proposing coding for new law in Minnesota Statutes, chapter 290.

Referred to the Committee on Agriculture, General Legislation and Veterans Affairs.

Senators Kubly, Murphy, Frederickson and Johnson, D.E. introduced--

S.F. No. 1473: A bill for an act relating to agriculture; providing no-interest loans for dairy farmers to purchase additional mature dairy cows; proposing coding for new law in Minnesota Statutes, chapter 41B.

Referred to the Committee on Agriculture, General Legislation and Veterans Affairs.

Senator Fischbach introduced--

S.F. No. 1474: A bill for an act relating to liquor; authorizing the city of St. Joseph to issue additional on-sale licenses.

Referred to the Committee on Commerce and Utilities.

Senators Olson; Johnson, D.J.; Kelley; Scheid and Gaither introduced--

S.F. No. 1475: A bill for an act relating to education; modifying the notice given on ballot for referendum revenue; amending Minnesota Statutes 2002, section 126C.17, subdivision 9.

Referred to the Committee on Finance.

Senators Marko and Moua introduced--

S.F. No. 1476: A bill for an act relating to transportation; modifying passenger vehicle registration tax depreciation schedule and removing maximum taxes; increasing motor fuel taxes; providing for distribution of certain county state-aid highway funds; authorizing ten-year imposition of one-half cent sales tax for transportation in certain counties if authorized in a regional referendum; authorizing sale of state bonds; appropriating money; amending Minnesota Statutes 2002, sections 162.07, subdivision 1, by adding subdivisions; 168.013, subdivision 1a; 296A.07, subdivision 3; 296A.08, subdivision 2; 297B.09, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 174; proposing coding for new law as Minnesota Statutes, chapter 473J.

Referred to the Committee on Finance.

Senators Pogemiller, Ranum, Larson and Belanger introduced--

S.F. No. 1477: A bill for an act relating to the city of Richfield; authorizing the creation of a redevelopment tax increment financing district.

Referred to the Committee on Taxes.

MEMBERS EXCUSED

Senator Ourada was excused from the Session of today. Senator Hottinger was excused from the Session of today at 1:15 p.m.

ADJOURNMENT

Senator Rest moved that the Senate do now adjourn until 9:00 a.m., Tuesday, April 15, 2003. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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