

STATE OF MINNESOTA

# Journal of the Senate

EIGHTY-THIRD LEGISLATURE

EIGHTY-FOURTH DAY

St. Paul, Minnesota, Thursday, April 1, 2004

The Senate met at 9:00 a.m. and was called to order by the President.

## CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Glenn E. Derby.

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

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

The President declared a quorum present.

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce 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. 58:** A bill for an act relating to crimes; reducing from 0.10 to 0.08 the per se alcohol concentration level for impairment offenses involving driving a motor vehicle, criminal vehicular homicide and injury, operating recreational vehicles or watercraft, hunting, or operating military vehicles while impaired; requiring a report; appropriating money; amending Minnesota Statutes 2002, sections 97B.065, subdivision 1; 97B.066, subdivision 1; 169A.20, subdivision 1; 169A.51, subdivision 1; 169A.52, subdivisions 2, 4, 7; 169A.54, subdivision 7; 169A.76; 192A.555; 609.21; Minnesota Statutes 2003 Supplement, section 169A.53, subdivision 3.

Senate File No. 58 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 31, 2004

Senator Foley moved that the Senate do not concur in the amendments by the House to S.F. No. 58, 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. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 2028 and 1793.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 31, 2004

### FIRST READING OF HOUSE BILLS

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

**H.F. No. 2028:** A bill for an act relating to public safety; appropriating money for the courts, public safety, corrections, the Sentencing Guidelines Commission, public defenders, and other agencies and programs; providing a life penalty without the possibility of release for certain first degree criminal sexual conduct crimes; creating indeterminate sentences and mandatory life sentences for certain first through fourth degree criminal sexual conduct crimes; creating a new criminal sexual predatory conduct crime; establishing the Minnesota Sex Offender Review Board; providing procedures for operation of the review board; specifying when an offender may petition for conditional release; directing the Sentencing Guidelines Commission to designate presumptive sentences for certain offenses; requiring the commissioner of corrections to establish criteria and procedures for reviewing offenders' petitions for release; allowing the Minnesota Sex Offender Review Board and the commissioner of corrections to proceed with expedited rulemaking; exempting the review board from contested case proceedings; granting the review board access to certain data; specifying that the Open Meeting Law does not apply to meetings and hearings of the Minnesota Sex Offender Review Board; providing a registration procedure when a person lacks a primary address; expanding the scope of the predatory offender registration law; requiring the commissioner of corrections to convene an end-of-confinement review committee to assess the risk level of certain offenders coming into Minnesota from another state and released from federal facilities; allowing community notification pursuant to a risk level assigned in another state; requiring the Bureau of Criminal Apprehension to forward registration and notification information on certain offenders to the Department of Corrections; regulating the sale of methamphetamine precursor drugs; authorizing reporting of suspicious transactions involving these drugs and providing civil immunity for so doing; requiring a methamphetamine educational program for retailers and consumers; further regulating while recodifying activities involving anhydrous ammonia; requiring courts to order restitution in certain situations involving controlled substances; imposing property restrictions in certain situations involving controlled substances; increasing the criminal penalties for possessing certain substances with the intent to manufacture methamphetamine; establishing new methamphetamine-related crimes; expanding the definition of "violent crime" for mandatory sentencing purposes; requiring that vehicles and other property used to manufacture methamphetamine indicate this in the title or deed; establishing a methamphetamine laboratory cleanup revolving fund and authorizing loans to assist counties and cities in conducting methamphetamine cleanup; expanding the crime of causing death while committing child abuse; treating probation officers the same as correctional employees for purposes of certain assaults; specifically including conduct involving sex trafficking in the promoting prostitution crime; modifying the distribution formula for prostitution and sex trafficking-related forfeiture proceeds; prohibiting nonvehicular evasive flight from a peace officer; establishing a crime for interfering with ambulance service personnel who are providing emergency care; increasing the criminal penalties for interfering with privacy; increasing the age

of protected minor victims for enhanced penalties for this crime; providing for representation by the public defender; providing public defender access to government data; requiring the public defense co-payment to be deposited in the general fund; increasing the appropriation for fiscal year 2005; permitting Ramsey County to collect and receive a \$1 criminal surcharge in order to fund Ramsey County's petty misdemeanor diversion program; providing that when a person is arrested for driving while impaired, the arresting officer must invalidate and return the person's driver's license card for use as an identification card during the period of license suspension, revocation, or cancellation; clarifying DWI plate impoundment law; establishing an expedited process for the nonconsensual collection of a blood sample from an inmate when a corrections employee is significantly exposed to the potential transfer of a bloodborne pathogen; providing for the safety of emergency workers on highways; defining "appropriate reduced speed" when approaching or passing stopped emergency vehicle in certain circumstances; authorizing citation within four hours of offense; proscribing a penalty on owner or lessee of vehicle when driver fails to drive at appropriate reduced speed at the scene of an emergency; requiring certain information to be included in driver education curriculum and driver's manual; providing procedures for retention of DNA evidence; authorizing retired court commissioners to be appointed to perform judicial duties in the district court; providing increased reimbursement for bullet-resistant vests; prohibiting falsely reporting police misconduct; imposing criminal penalties; providing for the rights of victims of sexual assault; instructing the revisor to recodify and renumber statutes; making various technical and conforming changes; amending Minnesota Statutes 2002, sections 2.722, subdivision 1; 2.724, subdivision 3; 13.851, by adding a subdivision; 13D.01, subdivision 2; 152.135, subdivision 2; 168A.05, subdivision 3; 169.14, subdivision 3, by adding subdivisions; 169A.52, subdivision 7; 169A.60, subdivision 11; 169A.63, subdivision 8; 171.12, subdivision 3; 171.13, by adding a subdivision; 241.336, by adding a subdivision; 241.67, subdivision 3; 243.166, as amended; 243.167; 243.24, subdivision 2; 243.55, subdivision 1; 244.05, subdivisions 1, 3, 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding a subdivision; 244.195, subdivision 1; 253B.02, by adding a subdivision; 253B.07, subdivisions 1, 4; 253B.08, subdivisions 2, 5a; 253B.16, subdivision 2; 253B.18, subdivisions 4a, 4b, 4c, 5; 253B.185, subdivision 2, by adding a subdivision; 253B.19, subdivision 2; 253B.20, subdivision 3; 260C.163, subdivision 3; 299A.38, subdivisions 2, 2a; 357.021, by adding a subdivision; 401.01, subdivision 2; 489.01, by adding a subdivision; 604.15, by adding a subdivision; 609.1095, subdivision 1; 609.117, subdivisions 1, 2; 609.1351; 609.185; 609.2231, subdivision 1; 609.321, subdivision 7, by adding a subdivision; 609.341, by adding subdivisions; 609.342; 609.343; 609.344; 609.345; 609.3452, subdivision 4; 609.347; 609.3471; 609.348; 609.353; 609.487, by adding a subdivision; 609.50, subdivision 1; 609.505; 609.5315, subdivision 1, by adding a subdivision; 609.746, subdivision 1; 609.748, subdivisions 2, 3a; 609.749, subdivisions 1, 2; 611.16; 611.215, subdivision 1; 611A.02, subdivision 2; 631.045; Minnesota Statutes 2003 Supplement, sections 152.021, subdivisions 2a, 3; 270A.03, subdivision 5; 357.021, subdivisions 6, 7; 609.2231, subdivision 3; 611.14; 611.17, subdivision 1; 611.25, subdivision 1; 611.26, subdivision 6; 611.272; proposing coding for new law in Minnesota Statutes, chapters 152; 244; 299A; 446A; 590; 609; proposing coding for new law as Minnesota Statutes, chapter 545A; repealing Minnesota Statutes 2002, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5; 243.166, subdivisions 1, 8; 299A.64; 299A.65; 299A.66; 486.055; 609.108; 609.109; Minnesota Statutes 2003 Supplement, section 611.18.

Senator Johnson, D.E. moved that H.F. No. 2028 be referred to the Committee on Finance. The motion prevailed.

**H.F. No. 1793:** A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and family education including general education, special programs, academic excellence, facilities, nutrition, and accounting, other programs, libraries, early childhood programs, prevention, self-sufficiency and lifelong learning, state agencies, deficiencies, technical and conforming amendments, and academic standards; providing for higher education including extending sunset of education telecommunications council, requiring eligible institutions to provide certain data to the Higher Education Services Office, making changes relating to child care grants and the Minnesota College Savings Plan, modifying certain education benefits of public safety officers, making changes to tuition reciprocity, and authorizing planning for applied doctoral degrees; repealing obsolete rules; providing for rulemaking; reducing appropriations; appropriating money; amending Minnesota Statutes 2002, sections 13.321,

subdivision 1, by adding subdivisions; 119A.46, subdivisions 2, 3, 8; 120A.05, by adding a subdivision; 120B.23, as amended; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions; 121A.45, subdivision 3; 121A.48; 121A.75, by adding a subdivision; 122A.06, subdivision 4; 122A.12, by adding a subdivision; 122A.16; 122A.18, subdivision 2a, by adding a subdivision; 122A.20, subdivision 2; 123A.05, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.195; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.71, subdivision 9; 123B.75, by adding a subdivision; 123B.76, by adding a subdivision; 123B.82; 123B.92, subdivision 5; 124D.15, subdivisions 1, 3, 5, 8, 10, 12, by adding a subdivision; 124D.16, subdivision 2; 124D.19, subdivision 11; 124D.20, by adding a subdivision; 124D.59, as amended; 124D.61; 124D.68, subdivisions 3, 9; 124D.69, subdivision 1; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.22; 125A.46; 125A.51; 125A.79, subdivisions 5, 7, by adding subdivisions; 125B.15; 126C.10, subdivision 2; 126C.15, subdivision 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 127A.42, subdivisions 4, 6; 127A.45, subdivision 11; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.50; 136A.08, by adding a subdivision; 136A.121, subdivision 2, by adding a subdivision; 136G.11, by adding a subdivision; 169.451; 171.04, subdivision 1; 171.05, subdivisions 2, 2b, 3; 171.19; 260A.01; 260A.03; 260C.163, subdivision 11; 299A.45, subdivision 4; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 16A.152, subdivision 2; 119A.46, subdivision 1; 120B.021, subdivisions 1, 3, by adding a subdivision; 120B.022, subdivision 1; 120B.024; 120B.36; 121A.64; 122A.09, subdivision 4; 123B.54; 123B.77, subdivision 4; 123B.92, subdivision 1; 124D.095, subdivisions 4, 7, 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 2, 9; 124D.20, subdivision 11; 124D.385, subdivision 2; 124D.42, subdivision 6; 124D.454, subdivision 2; 124D.531, subdivisions 1, 4; 124D.86, subdivisions 3, 4; 125A.023, subdivision 4; 125A.091, subdivision 5; 125A.75, subdivision 8; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.10, subdivisions 3, 31; 126C.15, subdivision 1; 126C.17, subdivision 9; 126C.40, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44; 126C.457; 126C.63, subdivision 8; 127A.41, subdivision 9; 127A.42, subdivision 2; 127A.47, subdivisions 7, 8; 128C.05, subdivision 1a; 136A.121, subdivision 9; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; Laws 2003, First Special Session chapter 9, article 1, section 53, subdivisions 2, 3, 5, 6, 11, 12; Laws 2003, First Special Session chapter 9, article 2, section 55, subdivisions 2, 3, 4, 5, 7, 9, 12, 15, 16, 17, 19, 21, as amended; Laws 2003, First Special Session chapter 9, article 3, section 19; Laws 2003, First Special Session chapter 9, article 3, section 20, subdivisions 4, 5, 6, 7, 8, 9; Laws 2003, First Special Session chapter 9, article 4, section 29; Laws 2003, First Special Session chapter 9, article 4, section 31, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 5, section 35, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 8, section 7, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 9, section 9, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 125B; 127A; 135A; 171; repealing Minnesota Statutes 2002, sections 124D.15, subdivisions 2, 4, 6, 11, 13; 124D.16, subdivisions 1, 4; 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; 124D.91; 124D.92; 126C.23; 134.47, subdivision 3; Minnesota Statutes 2003 Supplement, sections 124D.15, subdivision 7; 124D.42, subdivision 3; 124D.86, subdivision 5; 136G.11, subdivision 2; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

Senator Johnson, D.E. moved that H.F. No. 1793 be laid on the table. The motion prevailed.

### REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 3003, 2687, 2103, 2178 and the report pertaining to appointments. The motion prevailed.

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

**S.F. No. 3003:** A bill for an act proposing an amendment to the Minnesota Constitution by adding a section to article VI; restricting the power of the judicial branch to define marriage or its equivalent.

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

Page 1, line 11, delete "does not have the power to"

Page 1, line 12, delete everything before "to" and insert "has no jurisdiction under this constitution" and delete "or a legal"

Page 1, line 13, delete everything before the period

Page 1, line 14, delete "and"

Page 1, line 15, delete everything before the period

Page 1, line 20, delete everything after "branch" and insert "has no jurisdiction under the Minnesota Constitution"

Page 1, line 21, delete "legislature" and delete "or civil unions"

Amend the title as follows:

Page 1, lines 4 and 5, delete "or its equivalent"

And when so amended the bill be re-referred to the Committee on Rules and Administration without recommendation.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

**S.F. No. 1758:** A bill for an act relating to paternity; changing certain presumptions; amending Minnesota Statutes 2002, sections 257.55, subdivision 1; 257.62, subdivision 5.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 257.55, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTION.] A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court. The presumption in this paragraph does not apply if the man has joined in a recognition of parentage recognizing another man as the biological father under section 257.75, subdivision 1a;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth record; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

~~(d) While the child is under the age of majority, he receives the child into his home~~ During the first two years of the child's life, he resided in the same household with the child for at least 12 months and openly holds held out the child as his biological child own;

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this paragraph to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted;

~~(f) Evidence of statistical probability of paternity based on blood or genetic testing establishes the likelihood that he is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater;~~

~~(g)~~ He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed to be the father under this subdivision;

~~(h)~~ (g) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man and the child's mother have executed a recognition of parentage in accordance with section 257.75; or

~~(i)~~ (h) He and the child's biological mother executed a recognition of parentage in accordance with section 257.75 when either or both of the signatories were less than 18 years of age.

Sec. 2. Minnesota Statutes 2002, section 257.57, subdivision 2, is amended to read:

Subd. 2. [ACTIONS UNDER OTHER PARAGRAPHS OF SECTION 257.55, SUBDIVISION 1.] The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under ~~section~~ sections 257.55, subdivision 1, paragraph (d), (e), ~~(f)~~, (g), or (h), and 257.62, subdivision 5, paragraph (b), or the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) of that subdivision;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under ~~section 257.55, subdivision 1, paragraph (f)~~ 257.62, subdivision 5, paragraph (b), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood or genetic test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed

under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Sec. 3. Minnesota Statutes 2002, section 257.62, subdivision 5, is amended to read:

Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money to the public authority if the public authority is a party and is providing services to the parties or, if not, into court pursuant to the Rules of Civil Procedure to await the results of the paternity proceedings.

(b) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, there is an evidentiary presumption that the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "257.57, subdivision 2;"

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

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

**S.F. No. 2243:** A bill for an act relating to unemployment insurance; modifying definitions; making technical, housekeeping, and policy changes; modifying penalty provisions; amending Minnesota Statutes 2002, sections 176.011, subdivision 20; 268.035, subdivisions 3, 8a, 12a, 17, 20, 23a, 28, by adding a subdivision; 268.043; 268.044, subdivisions 2, 3, 4; 268.051, subdivisions 4, 7; 268.0511; 268.053, subdivision 2; 268.057, as amended; 268.058, as amended; 268.059, subdivision 3; 268.0625, as amended; 268.064, subdivisions 1, 3; 268.065, subdivisions 1, 2; 268.07, subdivisions 1, 3; 268.085, subdivisions 2, 12, 13a, 14; 268.095, subdivisions 4, 6a; 268.101, subdivisions 2, 4; 268.103; 268.105, as amended; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivisions 1, 2, 4; 268.145, subdivision 1; 268.18, subdivisions 2b, 6; 268.182; 268.184; Minnesota Statutes 2003 Supplement, sections 268.035, subdivision 15; 268.042, subdivisions 1, 3; 268.044, subdivisions 1, 1a; 268.045; 268.047, subdivision 5; 268.051, subdivisions 1, 1a, 3, 5, 6; 268.052, subdivisions 1, 2; 268.053, subdivisions 1, 3; 268.059, subdivision 1; 268.063; 268.066; 268.067; 268.0675; 268.07, subdivision 2; 268.085, subdivisions 1, 3, 4, 5, 6; 268.095, subdivisions 1, 3; 268.101, subdivisions 3, 3a; 268.18, subdivisions 1, 2; 268.186; 268.19, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 268.

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

Page 9, lines 24 to 27, delete the new language

Page 9, line 28, delete the paragraph coding and delete "(c)"

Page 9, line 36, strike "because of" and insert "considering the applicant's"

Page 10, line 1, strike "or" and insert "and current physical and mental"

Page 10, lines 5, 12, 16, 22, and 27, delete the new language and reinstate the stricken language

Page 18, line 1, strike "to" and insert "by electronic transmission in a format prescribed by"

Page 23, line 9, strike "(1)" and strike "makes a" and strike "request to apply" and insert "files an application by electronic transmission" and delete "manner"

Page 23, line 10, delete "and"

Page 23, line 13, strike "and (2) files an"

Page 23, strike line 14

Page 23, line 15, strike "commissioner"

Page 24, line 20, strike "a" and strike "request to apply" and insert "an application"

Page 50, line 12, strike "and payable"

Page 51, lines 21 and 22, strike "by telephone,"

Page 57, line 31, delete "and familiar with"

Page 57, line 32, after "claim" insert "and the basis for that claim"

Page 61, line 28, after "perform" insert "(1)" and reinstate the stricken language

Page 61, line 29, reinstate the stricken "usual duties of the applicant's usual occupation or"

Page 61, line 30, delete "suitable" and insert "(2) the usual duties of work that is gainful" and after "employment" insert "engaged in by others as a means of livelihood"

Page 63, line 29, strike "and" and insert:

"(2) that is adverse to the worker; and"

Page 63, line 30, strike "(2)" and insert "(3)"

Page 63, line 33, before "Paragraph" insert "The analysis required in" and delete "shall" and insert "must"

Page 63, line 34, delete everything after "case" and insert a period

Page 63, delete lines 35 and 36

Page 64, line 9, delete "(1)"

Page 64, lines 10 and 11, delete ", or (2) resulted in a favorable impact on the worker"

Page 64, lines 34 and 35, delete "the day following final enactment" and insert "August 1, 2004,"

Page 64, line 36, after "issued" insert "by the department"

Page 69, line 6, strike "sections 268.035 to 268.23" and insert "this chapter"

Page 81, line 19, strike ", redetermination,"

Page 88, line 24, delete "to an applicant"

Page 88, lines 25 and 26, delete "any other information obtained from any employer that is necessary" and insert "the name and address of any employer's unemployment insurance processing agent in order"

Pages 88 and 89, delete section 86

Page 89, after line 8, insert:

"The revisor of statutes shall change the terms "evinces" and "demonstrates" to "displays clearly" wherever they appear in Minnesota Statutes, chapter 268."

Renumber the sections in sequence

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

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

**S.F. No. 2687:** A bill for an act relating to utilities; making energy reliability utility assessments retroactive; amending Minnesota Statutes 2003 Supplement, section 216C.052, subdivision 3.

Reports the same back with the recommendation that 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. 2103:** A bill for an act relating to health; modifying the nursing facility survey process; establishing a quality improvement program; requiring annual quality improvement reports; requiring the commissioner of health to seek federal waivers and approvals; amending Minnesota Statutes 2002, sections 144A.10, subdivision 1a, by adding a subdivision; 256.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 144A.

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.10, subdivision 1a, is amended to read:

Subd. 1a. [TRAINING AND EDUCATION FOR NURSING FACILITY PROVIDERS.] The commissioner of health must establish and implement a prescribed process and program for providing training and education to providers licensed by the Department of Health, ~~either by itself or~~ in conjunction with the industry trade associations, before using any new regulatory guideline, regulation, interpretation, program letter or memorandum, or any other materials used in surveyor training to survey licensed providers. The process should include, but is not limited to, the following key components:

(1) facilitate the implementation of immediate revisions to any course curriculum for nursing assistants which reflect any new standard of care practice that has been adopted or referenced by the Health Department concerning the issue in question;

(2) conduct training of long-term care providers and health department survey inspectors ~~either jointly or during the same time frame~~ on the department's new expectations; and

(3) ~~within available resources the commissioner shall cooperate in the development of clinical standards, work with vendors of supplies and services regarding hazards, and identify research of interest to the long-term care community~~ consult with experts in the field to develop or make available training resources on current standards of practice and the use of technology.

Sec. 2. Minnesota Statutes 2002, section 144A.10, is amended by adding a subdivision to read:

Subd. 17. [AGENCY QUALITY IMPROVEMENT PROGRAM; ANNUAL REPORT ON SURVEY PROCESS.] (a) The commissioner shall establish a quality improvement program for the nursing facility survey and complaint processes. The commissioner must regularly consult with consumers, consumer advocates, and representatives of the nursing home industry and

representatives of nursing home employees in implementing the program. The commissioner, through the quality improvement program, shall submit to the legislature an annual survey and certification quality improvement report, beginning December 15, 2004, and each December 15 thereafter.

(b) The report must include, but is not limited to, an analysis of:

- (1) the number, scope, and severity of citations by region within the state;
- (2) cross-referencing of citations by region within the state and between states within the Centers for Medicare and Medicaid Services region in which Minnesota is located;
- (3) the number and outcomes of independent dispute resolutions;
- (4) the number and outcomes of appeals;
- (5) compliance with timelines for survey revisits and complaint investigations;
- (6) techniques of surveyors in investigations, communication, and documentation to identify and support citations;
- (7) compliance with timelines for providing facilities with completed statements of deficiencies; and
- (8) other survey statistics relevant to improving the survey process.

(c) The report must also identify and explain inconsistencies and patterns across regions of the state, include analyses and recommendations for quality improvement areas identified by the commissioner, consumers, consumer advocates, and representatives of the nursing home industry and nursing home employees, and provide action plans to address problems that are identified.

Sec. 3. [144A.101] [PROCEDURES FOR FEDERALLY REQUIRED SURVEY PROCESS.]

Subdivision 1. [APPLICABILITY.] This section applies to survey certification and enforcement activities by the commissioner related to regular, expanded, or extended surveys under Code of Federal Regulations, title 42, part 488.

Subd. 2. [STATEMENT OF DEFICIENCIES.] The commissioner shall provide nursing facilities with draft statements of deficiencies at the time of the survey exit process and shall provide facilities with completed statements of deficiencies within 15 working days of the exit process.

Subd. 3. [SURVEYOR NOTES.] The commissioner, upon the request of a nursing facility, shall provide the facility with copies of formal surveyor notes taken during the survey, with the exception of interview forms, at the time of the exit conference or at the time the completed statement of deficiency is provided to the facility. The survey notes shall be redacted to protect the confidentiality of individuals providing information to the surveyors. A facility requesting formal surveyor notes must agree to pay the commissioner for the cost of copying and redacting.

Subd. 4. [POSTING OF STATEMENTS OF DEFICIENCIES.] The commissioner, when posting statements of a nursing facility's deficiencies on the agency Web site, must include in the posting the facility's response to the citations. The Web site must also include the dates upon which deficiencies are corrected and the date upon which a facility is considered to be in compliance with survey requirements. If deficiencies are under dispute, the commissioner must note this on the Web site using a method that clearly identifies for consumers which citations are under dispute.

Subd. 5. [SURVEY REVISITS.] The commissioner shall conduct survey revisits within 15 calendar days of the date by which corrections will be completed, as specified by the provider in its plan of correction, in cases where category 2 or category 3 remedies are in place. The commissioner may conduct survey revisits by telephone or written communications for facilities at which the highest scope and severity score for a violation was level E or lower.

Subd. 6. [FAMILY COUNCILS.] Nursing facility family councils shall be interviewed as part of the survey process and invited to participate in the exit conference.

Sec. 4. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 21. [INTERAGENCY AGREEMENT WITH DEPARTMENT OF HEALTH.] The commissioner of human services shall amend the interagency agreement with the commissioner of health to certify nursing facilities for participation in the medical assistance program, to require the commissioner of health, as a condition of the agreement, to comply beginning July 1, 2005, with action plans included in the annual survey and certification quality improvement report required under section 144A.10, subdivision 17.

Sec. 5. [PROGRESS REPORT.]

The commissioner of health shall include in the December 15, 2004, quality improvement report required under section 2 a progress report and implementation plan for the following legislatively directed activities:

(1) an analysis of the frequency of defensive documentation and a plan, developed in consultation with the nursing home industry, consumers, unions representing nursing home employees, and advocates, to minimize defensive documentation;

(2) the nursing home providers workgroup established under Laws 2003, First Special Session chapter 14, article 13c, section 3; and

(3) progress in implementing the independent informal dispute resolution process required under Minnesota Statutes, section 144A.10, subdivision 16.

Sec. 6. [RESUBMITTAL OF REQUESTS FOR FEDERAL WAIVERS AND APPROVALS.]

(a) The commissioner of health shall seek federal waivers, approvals, and law changes necessary to implement the alternative nursing home survey process established under Minnesota Statutes, section 144A.37.

(b) The commissioner of health shall seek changes in the federal policy that mandates the imposition of federal sanctions without providing an opportunity for a nursing facility to correct deficiencies, solely as the result of previous deficiencies issued to the nursing facility."

Delete the title and insert:

"A bill for an act relating to health; modifying the nursing facility survey process; establishing a quality improvement program; requiring annual quality improvement reports; requiring the commissioner of health to seek federal waivers and approvals; amending Minnesota Statutes 2002, sections 144A.10, subdivision 1a, by adding a subdivision; 256.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 144A."

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

**S.F. No. 806:** A bill for an act relating to retirement; modifying military service credit purchase provisions in the teachers retirement association and first class city teacher plans; providing for compliance with certain provisions of the Internal Revenue Code related to all retirement plans; making other clarifying and technical changes; amending Minnesota Statutes 2002, sections 354.42, subdivision 7; 354.53; 354.533, subdivision 1; 354A.093; 354A.097, subdivision 1; 356.611, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 356.

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 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16C. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement under section 356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;
- (8) with the advice and consent of the board provide in-service training for the employees of the system;
- (9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;
- (10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;
- (11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;
- (12) certify funds available for investment to the State Board of Investment;
- (13) with the advice and approval of the board request the State Board of Investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the Department of Finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 2. Minnesota Statutes 2002, section 352B.02, subdivision 1e, is amended to read:

Subd. 1e. [AUDIT; ACTUARIAL VALUATION.] The legislative auditor shall audit the fund. Any actuarial valuation of the fund required under section 356.215 ~~shall~~ must be prepared by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 356.214. Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the commission-retained actuary. Any supplemental actuarial valuation or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 3. Minnesota Statutes 2002, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] (a) [APPOINTMENT.] The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.0815.

(b) [DUTIES.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

(1) attend all meetings of the board;

(2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate, with the approval of the board, up to two persons who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;

(5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;

(6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16C. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section

356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

(7) with the approval of the board provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner;

(13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and

(14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 4. Minnesota Statutes 2002, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES OF EXECUTIVE DIRECTOR.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

(1) attend all meetings of the board;

(2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of this chapter;

(5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;

(6) with the approval of the board, contract and set the compensation for the services of an approved actuary, professional management services, and any other consulting services. These contracts are not subject to the competitive bidding procedure prescribed by chapter 16C. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement under section 356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the executive director;

(7) with the approval of the board, provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, under this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, under this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board, request the State Board of Investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business. The executive director may:

(i) reduce all or part of the accrued interest and fines payable by an employing unit for reporting requirements under section 354.52, based on an evaluation of any extenuating circumstances of the employing unit;

(ii) assign association employees to conduct field audits of an employing unit to ensure compliance with the provisions of this chapter; and

(iii) recover overpayments, if not repaid to the association, by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until the overpayment, plus interest, has been recovered.

Sec. 5. Minnesota Statutes 2002, section 354A.021, subdivision 7, is amended to read:

Subd. 7. [ACTUARIAL CONSULTANT.] The board of trustees or directors of each teachers retirement fund association may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience

studies to supplement those performed by the actuary retained by the Legislative Commission on Pensions and Retirement under section 356.214. Any supplemental actuarial valuations or experience studies shall must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 6. [356.214] [ACTUARIAL VALUATION PREPARATION; JOINT RETENTION OF CONSULTING ACTUARY.]

Subdivision 1. [JOINT RETENTION.] (a) The chief administrative officers of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, and the St. Paul Teachers Retirement Fund Association, jointly, on behalf of the state, its employees, its taxpayers, and its various public pension plans, shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services for the retirement plans named in paragraph (b). The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c). Prior to becoming effective, the contract under this section is subject to a review and approval by the Legislative Commission on Pensions and Retirement.

(b) The contract for actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

- (1) the teachers retirement plan, Teachers Retirement Association;
- (2) the general state employees retirement plan, Minnesota State Retirement System;
- (3) the correctional employees retirement plan, Minnesota State Retirement System;
- (4) the State Patrol retirement plan, Minnesota State Retirement System;
- (5) the judges retirement plan, Minnesota State Retirement System;
- (6) the Minneapolis employees retirement plan, Minneapolis Employees Retirement Fund;
- (7) the public employees retirement plan, Public Employees Retirement Association;
- (8) the public employees police and fire plan, Public Employees Retirement Association;
- (9) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;
- (10) the Minneapolis teachers retirement plan, Minneapolis Teachers Retirement Fund Association;
- (11) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;
- (12) the legislators retirement plan, Minnesota State Retirement System;
- (13) the elective state officers retirement plan, Minnesota State Retirement System; and
- (14) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contract must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contract must require completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

- (1) individual salary progression;
- (2) the rate of return on investments based on the current asset value;
- (3) payroll growth;
- (4) mortality;
- (5) retirement age;
- (6) withdrawal; and
- (7) disablement.

The contract must include provisions for the preparation of cost analyses by the jointly retained actuary for proposed legislation that include changes in benefit provisions or funding policies prior to their consideration by the Legislative Commission on Pensions and Retirement.

(d) The actuary retained by the joint retirement systems shall annually prepare a report to the legislature, including a commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the actuarial valuation calculations. The actuary shall include with the report the actuary's recommendations to the legislature concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the joint retirement systems or as requested by the chair of the Legislative Commission on Pensions and Retirement, the actuary shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the joint retirement systems and the actuary retained may not exceed five years. The joint retirement system administrative officers shall establish procedures for the consideration and selection of contract bidders and the requirements for the contents of an actuarial services contract under this section. The procedures and requirements must be submitted to the Legislative Commission on Pensions and Retirement for review and comment prior to final approval by the joint administrators. The contract is subject to the procurement procedures under chapter 16C. The consideration of bids and the selection of a consulting actuarial firm by the chief administrative officers must occur at a meeting that is open to the public and reasonable timely public notice of the date and the time of the meeting and its subject matter must be given.

(g) The actuarial services contract may not limit the ability of the Minnesota legislature and its standing committees and commissions to rely on the actuarial results of the work prepared under the contract.

(h) The joint retirement systems shall designate one of the retirement system executive directors as the actuarial services contract manager.

Subd. 2. [ALLOCATION OF ACTUARIAL COSTS.] (a) The actuarial services contract manager shall assess each retirement plan specified in subdivision 1, paragraph (b), its appropriate portion of the total compensation paid to the actuary retained by the joint retirement systems for the actuarial valuation calculations and quadrennial experience studies. The total assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm for actuarial valuation calculations, including any public employees police and fire plan consolidation accounts of the Public Employees Retirement Association established after March 1, 1999, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined based on each plan's proportion of the actuarial services required, as determined by the retained actuary, to complete the actuarial valuation calculations, annual experience data collection and processing, and quadrennial experience studies for all plans.

The assessment must be made within 30 days following the end of the fiscal year and must be reported to the chief administrative officers of the applicable retirement plans. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan.

(b) The actuarial services contract manager shall assess each retirement plan or each interest group which requested the preparation of a cost analysis for proposed legislation the cost of the actuary retained by the joint retirement systems incurred in the cost analysis preparation. With respect to interest groups, the actuarial services contract manager shall obtain a written commitment for the payment of the assessment in advance of the cost analysis preparation and may require an advance deposit or advance payment before authorizing the cost analysis preparation. The retirement plan or the interest group shall pay the assessment within 30 days of the date on which the assessment is billed. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan for cost analyses requested by a retirement plan or system.

(c) The actuarial services contract manager shall assess to the Legislative Commission on Pensions and Retirement the cost of the actuarial cost analysis preparation for the proposed legislation requested by the chair of the Legislative Commission on Pensions and Retirement or by the commission executive director. The commission shall pay the assessment within 30 days of the date on which the assessment is billed.

Subd. 3. [REPORTING TO THE COMMISSION.] A copy of the actuarial valuations, experience studies, and actuarial cost analyses prepared by the actuary retained by the joint retirement systems under the contract provided for in this section must be filed with the executive director of the Legislative Commission on Pensions and Retirement at the same time that the document is transmitted to the actuarial services contract manager or to any other document recipient.

Sec. 7. Minnesota Statutes 2002, section 356.215, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] (a) It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal:

(1) ~~the Legislative Commission on Pensions and Retirement shall have prepared by the actuary retained by the commission under section 356.214 shall prepare~~ annual actuarial valuations of the retirement plans enumerated in section ~~3-85~~ 356.214, subdivision ~~1~~ 1, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section ~~3-85~~ 356.214, subdivision ~~1~~ 1, paragraph (b), clauses (1), (2), and (7); and

(2) the commissioner of finance may have prepared by the actuary retained by the commission, two years after each set of quadrennial experience studies, quadrennial projection valuations of at least one of the retirement plans enumerated in section ~~3-85~~ 6, subdivision ~~1~~ 1, paragraph (b), for which the commissioner determines that the analysis may be beneficial.

(b) The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any fund or plan that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund, plan, or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund to which section 356.216 applies.

Sec. 8. Minnesota Statutes 2002, section 356.215, subdivision 18, is amended to read:

Subd. 18. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] (a) The actuarial assumptions used for the preparation of actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the Legislative Commission on Pensions and Retirement.

(b) A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 356.214, by the actuarial advisor to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

Sec. 9. Minnesota Statutes 2002, section 422A.06, subdivision 2, is amended to read:

Subd. 2. [ACTUARIAL VALUATION REQUIRED.] As of July 1 of each year, an actuarial valuation of the retirement fund shall be prepared by the ~~commission-retained~~ actuary retained by the joint retirement systems under section 356.214 and filed in conformance with the provisions and requirements of sections 356.215 to 356.23. Experience studies shall be prepared at those times required by statute, required by the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement or ordered by the board.

The board may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 356.214. Any supplemental actuarial valuations or experience studies shall must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, sections 3.85, subdivisions 11 and 12; and 356.217, are repealed.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 to 10 are effective on the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; modifying the responsibilities to provide actuarial valuations and proposed legislative cost estimates; amending Minnesota Statutes 2002, sections 352.03, subdivision 6; 352B.02, subdivision 1e; 353.03, subdivision 3a; 354.06, subdivision 2a; 354A.021, subdivision 7; 356.215, subdivisions 2, 18; 422A.06, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 356.217."

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

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

**S.F. No. 2067:** A bill for an act relating to official publications; changing provisions for publication of public notices in newspapers; requiring a report; amending Minnesota Statutes 2002, sections 279.09; 279.092; 331A.01, subdivisions 2, 3, 6, 9, 10; 331A.02, subdivisions 1, 3, 4, by adding a subdivision; 331A.03, subdivision 1, by adding a subdivision; 331A.04, as amended; 331A.05, subdivisions 3, 4, 5, 7, by adding a subdivision; 331A.06, subdivision 3, by adding a subdivision; 331A.07; 331A.08, by adding a subdivision; 331A.09; 331A.10, subdivision

1; 331A.11, subdivisions 1, 2; 375.12, subdivision 2; 375.17, subdivision 1; 412.191, subdivision 3; 471.698, subdivision 1; repealing Minnesota Statutes 2002, sections 331A.01, subdivision 5; 331A.02, subdivision 2.

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

Page 1, line 27, delete everything after "later"

Page 1, line 28, delete the new language

Page 2, line 8, strike "the"

Page 2, line 9, strike "greater of" and delete "\$25" and strike "or"

Page 4, delete line 24 and insert "~~least once each week, for 50 weeks each year~~ twice a month with"

Page 8, line 6, after the second "to" insert "the statutory requirements for"

Page 8, line 9, delete the colon

Page 8, delete lines 10 to 12

Page 8, line 13, delete everything before "the"

Page 8, line 23, delete "this chapter" and insert "law"

Page 10, line 27, delete "county" and insert "political subdivision"

Page 10, line 30, delete "county board" and insert "governing body of the political subdivision"

Page 11, line 4, delete the new language and reinstate the stricken language

Page 12, line 9, after "proceedings" insert "other than attachments to the minutes"

Page 12, line 24, before "A" insert "Notwithstanding other law,"

Page 13, line 23, before "If" insert "Notwithstanding other statutory publication requirements,"

Page 14, line 35, delete "\$250" and insert "\$300"

Page 15, line 1, delete "\$250" and insert "\$300"

Page 16, line 32, delete "\$250" and insert "\$300"

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

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

**S.F. No. 2178:** A bill for an act relating to municipal airports; prohibiting closure without approval of the legislature; proposing coding for new law in Minnesota Statutes, chapter 360.

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

Delete everything after the enacting clause and insert:

"Section 1. [360.046] [REQUIREMENTS FOR CLOSURE OF MUNICIPAL AIRPORT.]

Subdivision 1. [DEFINITION OF MUNICIPAL AIRPORT.] For the purposes of this section, "municipal airport" is an airport owned by a county, city, town, or joint powers board within the meaning of section 360.042, exclusive of an airport formed and operated by the Metropolitan Airports Commission pursuant to sections 473.601 to 473.680.

Subd. 2. [NOTICE OF INTENT TO CLOSE PROVIDED TO COMMISSIONER.] The owner of a municipal airport shall provide written notice to the commissioner of intent to close the airport. Notice must be provided to the commissioner before or immediately upon cessation of operations at the airport.

Subd. 3. [PRESERVATION OF AIRPORT PROPERTY; PENALTY.] For 120 days following receipt by the commissioner of the notice described in subdivision 2, the municipality may not abandon, significantly alter, demolish, or convey airport property. A municipality in violation must be assessed a civil penalty of \$1,000 for each day of the 120-day period that it remains in violation. Proceeds of the penalty must be deposited in the state airports fund.

Subd. 4. [PUBLIC NOTICE AND HEARING.] The owner of a municipal airport shall schedule a public hearing to take place within 60 days following the giving of notice to the commissioner of intent to close. The owner of the airport shall provide public notice within the municipality served by the airport a minimum of 21 days before the hearing. At the hearing, the municipality shall present information concerning the airport closing, and the public must have the opportunity to comment.

Subd. 5. [IMPACT EVALUATION.] Before the public hearing, the commissioner shall prepare a written evaluation of the impact on the airport system of the closure of the municipal airport. The commissioner shall make the evaluation available to the municipality and to the public in advance of the hearing."

Delete the title and insert:

"A bill for an act relating to municipal airports; requiring notice to commissioner of transportation and public notice and hearing before final closure of municipal airport; proposing coding for new law in Minnesota Statutes, chapter 360."

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

**S.F. No. 2078:** A bill for an act relating to insurance; permitting service cooperatives to provide group health coverage to private employers; proposing coding for new law in Minnesota Statutes, chapter 123A.

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

Page 1, lines 11 and 12, delete "A pool may be either fully insured or" and insert "A service cooperative may not create and manage a group health coverage pool that is organized under chapter 62H or a pool that is"

Page 1, line 15, delete "including section"

Page 1, line 16, delete everything before the period

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

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

**S.F. No. 2587:** A bill for an act relating to insurance; establishing risk-based capital requirements for health organizations; establishing the minimum standard of valuation for health insurance; enacting model regulations of the National Association of Insurance Commissioners; regulating loss revenue certifications; amending Minnesota Statutes 2002, section 60A.129, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 60A.

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

Page 1, line 20, delete "4" and insert "3"

Page 2, line 6, delete the first comma and insert "or" and delete ", or 62E"

Page 4, delete lines 2 to 13

Page 4, line 14, delete "4" and insert "3"

Page 6, line 29, delete "of commerce"

Page 13, line 6, delete "retaking" and insert "rate making"

Page 14, line 35, delete "Department of" and insert "department"

Page 14, line 36, delete "Commerce"

Page 34, after line 35, insert:

"ARTICLE 4  
SECURITIES REGULATION TECHNICAL CHANGES

Section 1. Minnesota Statutes 2002, section 45.027, subdivision 7a, is amended to read:

Subd. 7a. [AUTHORIZED DISCLOSURES OF INFORMATION AND DATA.] (a) The commissioner may release and disclose any active or inactive investigative information and data ~~on~~ licensees to any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 when necessary for the requesting agency in initiating, furthering, or completing an investigation.

(b) The commissioner may release any active or inactive investigative data relating to the conduct of the business of insurance to the Office of the Comptroller of the Currency or the Office of Thrift Supervision in order to facilitate the initiation, furtherance, or completion of the investigation.

Sec. 2. Minnesota Statutes 2002, section 60A.03, subdivision 9, is amended to read:

Subd. 9. [CONFIDENTIALITY OF INFORMATION.] The commissioner may not be required to divulge any information obtained in the course of the supervision of insurance companies, or the examination of insurance companies, including examination related correspondence and workpapers, until the examination report is finally accepted and issued by the commissioner, and then only in the form of the final public report of examinations. Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of this information to the insurance department of another state ~~or~~, the National Association of Insurance Commissioners, or any national securities association registered under the Securities Exchange Act of 1934, if the recipient of the information agrees in writing to hold it as nonpublic data as defined in section 13.02, in a manner consistent with this subdivision. This subdivision does not apply to the extent the commissioner is required or permitted by law, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding. For purposes of this subdivision, a subpoena is not an order of a court of law.

Sec. 3. Minnesota Statutes 2002, section 60A.031, subdivision 4, is amended to read:

Subd. 4. [EXAMINATION REPORT; FOREIGN AND DOMESTIC COMPANIES.] (a) The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the

report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the Commerce Department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners and any national securities association registered under the Securities Exchange Act of 1934. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

Sec. 4. [EFFECTIVE DATE.]

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

Amend the title as follows:

Page 1, line 2, delete "insurance" and insert "commerce"

Page 1, line 7, after the semicolon, insert "regulating disclosure of information to certain investigatory entities;"

Page 1, line 8, delete "section" and insert "sections 45.027, subdivision 7a; 60A.03, subdivision 9; 60A.031, subdivision 4;"

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. 2379:** A bill for an act relating to commerce; regulating real estate brokers and salespersons; making various changes in real property law; recodifying the laws and rules regulating these licensees; making technical and conforming changes; amending Minnesota Statutes 2002, sections 58.13, subdivision 1; 58.16, subdivisions 2, 4; 82.17, subdivision 4, by adding subdivisions; 82.19, subdivisions 3, 5, by adding subdivisions; 82.195; 82.196; 82.197; 82.20, subdivisions 3, 4, 8, by adding subdivisions; 82.21, by adding subdivisions; 82.22, subdivisions 6, 8, 12, 13, by adding subdivisions; 82.24, subdivisions 3, 5, by adding subdivisions; 82.27, by adding a subdivision; 513.55, subdivision 1; 513.56, by adding a subdivision; 515B.4-101; 515B.4-102; 515B.4-106; 515B.4-107; 515B.4-108; 559.21, subdivision 4; proposing

coding for new law in Minnesota Statutes, chapters 82; 325F; 559; repealing Minnesota Statutes 2002, sections 58.02, subdivision 24; 82.22, subdivision 9; Minnesota Rules, parts 2800.0100; 2800.0200; 2800.0300; 2800.1100; 2800.1200; 2800.1300; 2800.1400; 2800.1500; 2800.1600; 2800.1700; 2800.1750; 2800.1751; 2800.1800; 2800.1900; 2800.2000; 2800.2100; 2800.2150; 2805.0100; 2805.0200; 2805.0300; 2805.0400; 2805.0500; 2805.0600; 2805.0700; 2805.0800; 2805.0900; 2805.1000; 2805.1100; 2805.1300; 2805.1400; 2805.1500; 2805.1600; 2805.1700; 2805.1800; 2805.1900; 2805.2000.

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

Pages 7 to 14, delete sections 7 and 8

Page 15, lines 4 to 8, delete the new language

Page 15, line 9, strike "ten-day" and insert "five-day" and reinstate the stricken "cannot"

Page 15, lines 10 and 11, reinstate the stricken language and delete the new language

Page 20, delete lines 27 to 31

Page 21, line 5, strike "ten-day" and insert "five-day"

Page 21, lines 6 to 8, reinstate the stricken language and delete the new language

Pages 21 to 28, delete sections 12 and 13

Page 28, line 17, delete "14" and insert "10" and delete "Section 13"

Page 28, delete lines 18 and 19

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 16, delete "515B.4-101; 515B.4-102;"

Page 1, line 17, delete "559.21, subdivision 4;"

Page 1, line 19, delete "559;"

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. 2609:** A bill for an act relating to education; including a mental health community representative on a community transition team; amending Minnesota Statutes 2002, section 125A.22.

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

Page 1, line 18, delete "the" and delete "community"

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

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

**S.F. No. 2248:** A bill for an act relating to commerce; requiring more detail in reports from municipalities on building code enforcement; providing a property tax deduction for structures contaminated by mold; regulating contractor estimates; establishing a statutory cure process for home warranty claims; requiring preclicensing education of residential building contractors; making changes in continuing education; providing homebuyers with access to information about

avoidance of moisture and other problems; permitting successful home warranty claimants to recover attorney fees and expenses; amending Minnesota Statutes 2002, sections 16B.65, subdivision 7; 273.123, by adding a subdivision; 326.87, subdivision 1; 326.89, subdivision 2; 326.96; 327A.05; Minnesota Statutes 2003 Supplement, section 16B.685; proposing coding for new in Minnesota Statutes, chapters 325E; 326.

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

Page 2, line 10, delete "municipal building inspectors" and insert "persons engaged in plan review and inspection of state construction codes"

Pages 4 to 9, delete sections 5 to 13 and insert:

"Sec. 5. [325E.60] [WRITTEN CONTRACT REQUIRED.]

Contracts between a contractor and a customer for the performance of a licensee's services must be reduced to writing and must contain the following:

- (1) a summary of the work to be performed;
- (2) a description of materials to be used or a list of standard features included; and
- (3) the total contract price, or a description of the basis on which the price will be calculated.

The licensee shall provide at no cost to the customer a copy of all written contracts between the licensee and its customer, including, but not limited to, proposals, quotations, change orders, and purchase orders at the time the document is executed."

Page 13, delete lines 29 to 36

Page 14, delete lines 1 to 4

Page 14, line 12, delete "must" and insert "may"

Page 14, line 25, delete "must" and insert "may"

Page 14, delete lines 30 to 36

Page 15, delete lines 1 to 36

Page 16, delete lines 1 to 30 and insert:

"Subd. 3. [STATUTORY CURE.] (a) Before commencing a cause of action under this section, the vendee or owner shall give written notice by certified mail, return receipt requested, to the vendor or home improvement contractor specifying in reasonable detail the alleged defect that may form a basis for a cause of action if not corrected. In the case of a notice involving more than one unit in a multiunit dwelling where alleged defects are substantially similar in multiple dwelling units, the notice complies with this paragraph if it provides a reasonably detailed description of the alleged defects in a fair and representative sample of the affected units.

(b) A vendor or home improvement contractor has ten days to make a good-faith response to a notice received under paragraph (a). The response must be made by certified mail, return receipt requested. The response may include a request to inspect the property or a denial of the alleged defects. If the alleged defects are denied, the vendee or owner may commence a cause of action under this section.

(c) If inspection is requested in the response, the vendor or home improvement contractor shall inspect the dwelling to determine the nature and cause of the alleged defects and the nature and extent of any repairs and replacements necessary to remedy the alleged defects. Upon request, the vendee or owner shall ensure that the dwelling is made available for inspection within a reasonable period of time. The vendor or home improvement contractor shall provide reasonable notice to the vendee or owner before conducting the inspection. The inspection shall be conducted

at a reasonable time. The vendor or home improvement contractor may use reasonable measures, including testing, to determine the nature and cause of the alleged defects and the nature and extent of any repairs or replacements necessary to remedy the alleged defects. If the vendor or home improvement contractor conducts testing pursuant to this paragraph, the vendor or home improvement contractor shall restore the unit to its condition before the testing.

(d) Within 30 days after the inspection under paragraph (c) is conducted, the vendor or home improvement contractor shall send to the vendee or owner by certified mail, return receipt requested, a good-faith, written response to the vendee or owner's notice based on the results of the inspection. The response may include an offer to repair or replace any alleged defects, to have the alleged defects repaired or replaced at the expense of the vendor or home improvement contractor, or to provide monetary compensation to the vendee or owner. The offer shall describe in reasonable detail all repairs or replacements that the vendor or home improvement contractor is offering to make or provide to the dwelling and a reasonable estimate of the date by which the repairs or replacements will be made or monetary compensation will be provided.

(e) Within 20 days after receipt of the offer made pursuant to paragraph (d), the vendee or owner shall give a good-faith, written response to the offer. The response must be made by certified mail, return receipt requested. If the offer is rejected, the response must include the basis for the vendee or owner's rejection of the offer and may include a counteroffer. Within ten days after receipt of the response of the vendee or owner, the vendor or home improvement contractor may make a best and final offer to the vendee in writing by certified mail, return receipt requested. After receipt of that offer, the vendee or owner may commence an action under this section.

(f) The applicable statute of limitations, within which a vendee or owner must bring a claim or action under this chapter, is suspended from the time of commencement of procedures under this subdivision until the offer made pursuant to paragraph (d) has been rejected.

(g) If the vendor or home improvement contractor does not comply with the requirements of this subdivision, the vendee or owner may commence an action under this section. If a vendee or owner commences an action under this section without complying with this section, upon motion, the court shall dismiss the claim without prejudice."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "regulating contractor estimates" and insert "requiring written contracts for contractor licensee services"

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

#### **Senator Cohen from the Committee on Finance, to which was re-referred**

**S.F. No. 1801:** A bill for an act providing for designation of an international economic development zone; providing tax incentives; requiring a report; appropriating money; amending Minnesota Statutes 2002, sections 272.02, by adding a subdivision; 290.06, by adding a subdivision; 297A.68, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 290.01, subdivisions 19b, 29; 290.06, subdivision 2c; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 2, 3; 297B.03; proposing coding for new law in Minnesota Statutes, chapter 469.

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

Page 20, line 25, delete "or" and insert a comma and after " 469.101," insert "or 471.59,"

Page 23, line 34, after "distant" insert "or 90 minutes drive time"

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

**Senator Cohen from the Committee on Finance, to which was referred**

**S.F. No. 2851:** A bill for an act relating to drivers' licenses; limiting issuance of instruction permit and provisional driver's license after certain convictions; amending Minnesota Statutes 2002, sections 171.05, by adding a subdivision; 171.055, subdivision 1.

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

Page 1, line 15, after "a" insert "crash-related" and delete everything after "violation"

Page 1, line 16, delete "subdivision 1"

Page 2, line 34, after "a" insert "crash-related" and delete everything after "violation,"

Page 2, line 35, delete everything before "and"

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

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

**S.F. No. 1944:** A bill for an act relating to insurance; regulating the joint underwriting association; modifying coverage; amending Minnesota Statutes 2002, section 62F.04, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62F.04, is amended by adding a subdivision to read:

Subd. 2a. [HIGHER LIMITS FOR LONG-TERM CARE PROVIDERS.] In addition to the policies described in subdivision 2, the association may issue policies to long-term care providers who are members of an activated class with limits not to exceed \$2,000,000 for each claimant under one policy and \$4,000,000 for all claimants under one policy in any one year, provided that the association finds that the applicant needs the higher limits in order to conduct its business. Prudent business practice or mere desire to have higher limits is not a sufficient standard for the association to issue such policies.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2455** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.            S.F. No.

**CONSENT CALENDAR**

H.F. No.            S.F. No.  
2455                    2499

**CALENDAR**

H.F. No.            S.F. No.

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2691** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2691	2639				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2691 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2691 and insert the language after the enacting clause of S.F. No. 2639, the first engrossment; further, delete the title of H.F. No. 2691 and insert the title of S.F. No. 2639, the first engrossment.

And when so amended H.F. No. 2691 will be identical to S.F. No. 2639, and further recommends that H.F. No. 2691 be given its second reading and substituted for S.F. No. 2639, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2383** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2383	2583				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2383 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2383 and insert the language after the enacting clause of S.F. No. 2583, the first engrossment; further, delete the title of H.F. No. 2383 and insert the title of S.F. No. 2583, the first engrossment.

And when so amended H.F. No. 2383 will be identical to S.F. No. 2583, and further recommends that H.F. No. 2383 be given its second reading and substituted for S.F. No. 2583, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1691** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
1691	1798

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1941** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
1941	2122

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1851** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
1851	1954

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2630** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
2630	2479

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2630 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2630 and insert the language after the enacting clause of S.F. No. 2479, the first engrossment; further, delete the title of H.F. No. 2630 and insert the title of S.F. No. 2479, the first engrossment.

And when so amended H.F. No. 2630 will be identical to S.F. No. 2479, and further recommends that H.F. No. 2630 be given its second reading and substituted for S.F. No. 2479, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1645** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1645	1559				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1645 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1645 and insert the language after the enacting clause of S.F. No. 1559, the first engrossment; further, delete the title of H.F. No. 1645 and insert the title of S.F. No. 1559, the first engrossment.

And when so amended H.F. No. 1645 will be identical to S.F. No. 1559, and further recommends that H.F. No. 1645 be given its second reading and substituted for S.F. No. 1559, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2419** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2419	2393				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 995** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
995	1268				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2363** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2363	2211				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2363 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2363 and insert the language after the enacting clause of S.F. No. 2211, the second engrossment; further, delete the title of H.F. No. 2363 and insert the title of S.F. No. 2211, the second engrossment.

And when so amended H.F. No. 2363 will be identical to S.F. No. 2211, and further recommends that H.F. No. 2363 be given its second reading and substituted for S.F. No. 2211, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2187** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2187	2650				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2187 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2187 and insert the language after the enacting clause of S.F. No. 2650, the first engrossment; further, delete the title of H.F. No. 2187 and insert the title of S.F. No. 2650, the first engrossment.

And when so amended H.F. No. 2187 will be identical to S.F. No. 2650, and further recommends that H.F. No. 2187 be given its second reading and substituted for S.F. No. 2650, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2651** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.            S.F. No.

**CONSENT CALENDAR**H.F. No.            S.F. No.  
2651                    2347**CALENDAR**

H.F. No.            S.F. No.

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 1983** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**H.F. No.            S.F. No.  
1983                    1805**CONSENT CALENDAR**

H.F. No.            S.F. No.

**CALENDAR**

H.F. No.            S.F. No.

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1983 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1983 and insert the language after the enacting clause of S.F. No. 1805; further, delete the title of H.F. No. 1983 and insert the title of S.F. No. 1805.

And when so amended H.F. No. 1983 will be identical to S.F. No. 1805, and further recommends that H.F. No. 1983 be given its second reading and substituted for S.F. No. 1805, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred**

**H.F. No. 2906** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.            S.F. No.

**CONSENT CALENDAR**H.F. No.            S.F. No.  
2906                    2871**CALENDAR**

H.F. No.            S.F. No.

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2906 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2906 and insert the language after the enacting clause of S.F. No. 2871, the first engrossment; further, delete the title of H.F. No. 2906 and insert the title of S.F. No. 2871, the first engrossment.

And when so amended H.F. No. 2906 will be identical to S.F. No. 2871, and further recommends that H.F. No. 2906 be given its second reading and substituted for S.F. No. 2871, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Kelley from the Committee on Education**, to which were referred the following appointments as reported in the Journal for January 9, 2003:

**BOARD OF SCHOOL ADMINISTRATORS**

Kenneth LaCroix  
Daniel Sullivan  
Ann Zweber Werner

**BOARD OF TEACHING**

Rosemary Crowe-Campos  
Dee Grover-Thomas  
Allen Hoffman  
Renee Jesness  
Richard Tschida

**BOARD OF THE PERPICH CENTER FOR ARTS EDUCATION**

Penny Johnson  
Mohammed Lawal  
Jane McWilliams  
Sonja Peterson  
Dan Reigstad

Reports the same back with the recommendation that the appointments be confirmed.

Senator Johnson, D.E. moved that the foregoing committee report be laid on the table. The motion prevailed.

**SECOND READING OF SENATE BILLS**

S.F. Nos. 1758, 2243, 2067, 2078, 2587, 2379, 2609, 2851 and 1944 were read the second time.

**SECOND READING OF HOUSE BILLS**

H.F. Nos. 2455, 2691, 2383, 1691, 1941, 1851, 2630, 1645, 2419, 995, 2363, 2187, 2651, 1983 and 2906 were read the second time.

**MOTIONS AND RESOLUTIONS**

Senator Scheid moved that the name of Senator Wiger be added as a co-author to S.F. No. 2248. The motion prevailed.

Senator Ortman moved that the name of Senator LeClair be added as a co-author to S.F. No. 2702. The motion prevailed.

Senator Tomassoni moved that the name of Senator Belanger be added as a co-author to S.F. No. 2915. The motion prevailed.

Senator Moua moved that S.F. No. 2430 be withdrawn from the Committee on Judiciary and re-referred to the Committee on Taxes. The motion prevailed.

Senator Pappas moved that S.F. No. 2786 be withdrawn from the Committee on Health and Family Security and re-referred to the Committee on Finance. The motion prevailed.

Senator Johnson, D.E., for Senator Kiscaden, moved that S.F. No. 2869 be withdrawn from the Committee on Health and Family Security and re-referred to the Committee on Finance. The motion prevailed.

Senator Johnson, D.E. moved that H.F. No. 2270 be withdrawn from the Committee on State and Local Government Operations and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 2067, now on General Orders. The motion prevailed.

**Senators Ortman and Robling introduced--**

**Senate Resolution No. 139:** A Senate resolution congratulating the Chaska High School boys basketball team on winning the 2004 State High School Class 4A Boys Basketball Tournament.

Referred to the Committee on Rules and Administration.

Senator Pogemiller moved that S.F. No. 2999 be withdrawn from the Committee on Finance and re-referred to the Committee on Taxes. The motion prevailed.

Senator Betzold moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Cohen be added as chief author to S.F. No. 1848. The motion prevailed.

Senator Stumpf moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Kelley be shown as chief author to S.F. No. 1774. The motion prevailed.

**RECESS**

Senator Johnson, D.E. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

**APPOINTMENTS**

Senator Johnson, D.E. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 58: Senators Foley, Skoglund and Knutson.

Senator Johnson, D.E. moved that the foregoing appointments be approved. The motion prevailed.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

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

**Senators Kleis, Wergin and Fischbach, by request, introduced--**

**S.F. No. 3020:** A bill for an act relating to the St. Cloud area cities; authorizing local option sales taxes; modifying the use of revenues; authorizing the cities to impose a sales tax; amending Laws 1986, chapter 379, section 1; Laws 1986, chapter 379, section 2, subdivision 1.

Referred to the Committee on Taxes.

**Senator Rest introduced--**

**S.F. No. 3021:** A bill for an act relating to estate taxation; allowing Minnesota qualified terminable interest property elections; modifying the definition of the taxable estate; amending Minnesota Statutes 2003 Supplement, section 291.03, subdivision 1.

Referred to the Committee on Taxes.

### RECESS

Senator Johnson, D.E. moved that the Senate do now recess until 5:45 p.m. The motion prevailed.

The hour of 5:45 p.m. having arrived, the President called the Senate to order.

### MOTIONS AND RESOLUTIONS - CONTINUED

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

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1653.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 1, 2004

### REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1408 and 2423. The motion prevailed.

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

**S.F. No. 2009:** A bill for an act relating to state government; transferring tourism functions from Department of Employment and Economic Development to Explore Minnesota Tourism; appropriating money; amending Minnesota Statutes 2002, sections 116J.01, subdivision 5; 160.276, subdivision 5; Minnesota Statutes 2003 Supplement, sections 15.057; 15.75, subdivision 5; 116J.011; 116J.60; 161.20, subdivision 3; 270B.14, subdivision 13; proposing coding for new law as Minnesota Statutes, chapter 116U; repealing Minnesota Statutes 2002, sections 116J.01, subdivision 4; 116J.036; 116J.615; 116J.616; 116J.63, subdivision 4.

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

Page 6, line 1, delete "appointed" and insert ", one each from the two largest political party caucuses in each house, appointed according to the rules of the respective houses; and"

Page 6, delete line 2

Page 6, line 36, after "contract" insert ", in accordance with section 16C.08,"

Page 7, line 18, delete "contracts and" and insert "joint powers or cooperative"

Page 7, delete line 23 and insert "organizations as necessary to perform the"

Page 7, line 36, after "into" insert "tourism promotion"

Page 8, delete lines 5 and 6 and insert:

"(c) Contracts for goods and nonprofessional technical services made under paragraph (b), clauses (3) and (9), are not subject to the provisions of sections 16C.03, subdivision 3, and 16C.06 concerning competitive bidding and section 16C.055 concerning barter arrangements. Unless otherwise determined by the commissioner of administration, all other provisions of chapter 16C apply to this section, including section 16C.08, relating to professional and technical services."

Page 8, line 11, delete "An" and insert "Policies on promotional expenses must be approved by the Explore Minnesota Tourism Council and the commissioner of administration. A policy for expenditures on food, lodging, and travel must be approved by the commissioner of employee relations. No"

Page 8, delete lines 12 and 13

Page 9, line 2, delete the comma and insert a period

Page 9, delete line 3

Page 9, line 18, after the period, insert "The gift acceptance procedures of sections 16A.013 to 16A.016 do not apply to this section."

Page 9, line 22, before the period, insert "for the purposes of section 116U.55. Duties of the director or the office may not be transferred to a nonprofit corporation or charitable foundation"

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. 2047:** A bill for an act relating to civil actions; providing a factor for determining the amount of attorney fees awarded in certain actions; proposing coding for new law in Minnesota Statutes, chapter 549.

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

Delete everything after the enacting clause and insert:

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

(a) When a statute provides for the award of attorney fees to a party that has recovered money damages, the court, in setting the amount of attorney fees, may take into consideration the reasonableness of the attorney fees sought to the amount of damages awarded to the party.

(b) If an offer of judgment is made by a party under Rule 68 of the Rules of Civil Procedure and the party claiming attorney fees does not obtain judgment in excess of the offer, no attorney fees may be awarded for fees incurred after service of the offer of judgment.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to actions commenced on or after that date."

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

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

**S.F. No. 2114:** A bill for an act relating to education; authorizing a public body to close a meeting to negotiate the purchase or sale of real or personal property; amending Minnesota Statutes 2002, section 13D.05, subdivision 3.

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

Page 2, line 1, before "The" insert "Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting."

Page 2, line 3, delete "two" and insert "eight"

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. 1639:** A bill for an act relating to motor vehicles; providing for removal and disposal of unauthorized vehicles on private, nonresidential property used for servicing vehicles; amending Minnesota Statutes 2002, section 168B.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 168B.

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

Page 2, line 10, after "mail" insert ", return receipt requested,"

Page 2, line 21, after "mail" insert ", return receipt requested,"

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

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

**S.F. No. 2884:** A bill for an act relating to insurance; regulating coverages, fees, forms, disclosures, reports, and premiums; amending Minnesota Statutes 2002, sections 60A.14, subdivision 1; 60A.23, subdivision 8; 60A.966; 60A.969; 62A.136; 62A.31, subdivision 1h; 62A.318; 65A.29, subdivision 11; 65B.48, subdivision 3; 72A.20, subdivisions 13, 15; 72A.201, subdivisions 3, 4; 79.56, subdivisions 1, 3; 79.62, subdivision 3; 79A.12, subdivision 2; 176.191, subdivision 3; Minnesota Statutes 2003 Supplement, section 62A.316; proposing coding for new law in Minnesota Statutes, chapter 79; repealing Minnesota Statutes 2002, sections 61A.072, subdivision 2; 62E.05, subdivision 2.

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

Page 1, after line 15, insert:

"Section 1. Minnesota Statutes 2002, section 59A.12, subdivision 2, is amended to read:

Subd. 2. In the event that a premium is subject to an audit to determine the final premium amount, the gross unearned premium will be calculated based upon the ~~deposit~~ audited premium and the insurer shall return whatever gross unearned premiums are due ~~based upon the deposit~~ rather than the actual unearned premium under the contract to the finance company for the account of the insured or insureds within 60 days after receipt of the notice of cancellation."

Page 3, after line 2, insert:

"Sec. 3. Minnesota Statutes 2002, section 60A.171, subdivision 11, is amended to read:

Subd. 11. Upon termination of an agency, a company is prohibited from soliciting business in the notice of nonrenewal required by section 60A.37. If termination of an agency contract is the ground for nonrenewal of a policy of homeowner's insurance, as defined under section 65A.27, subdivision 4, the company must provide notice to the policyholder that the policy is not being renewed due to the termination of the company's contract with the agency. If the agency is unable to replace the homeowner's insurance policy with a suitable policy from another insurer, the agent must notify the policyholder of the policyholder's right to renew with the company terminating the agency contract. The company must renew the policy if the insured or the insured's agent makes a written request for the renewal before the renewal date."

Page 7, after line 2, insert:

"Sec. 7. Minnesota Statutes 2003 Supplement, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. [LOSS RATIO STANDARDS.] (a) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, health care policies or certificates shall not be delivered or issued for delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992, or assessments made under section 62E.11, subdivision 6, are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are not relevant for purposes of this section.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

(c) A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(d) Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

(e)(1) For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(2) For purposes of this section, (i) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (ii) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state.

(f) The loss ratio phase-in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. These policies must meet a 68 percent loss ratio for individual policies, a 71 percent loss ratio for small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies.

(g) Notwithstanding paragraphs (a) and (f), the loss ratio shall be 60 percent for a health plan as defined in section 62A.011, offered by an insurance company licensed under chapter 60A that is assessed less than ten percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. For purposes of the percentage calculation of the association's assessments, an insurance company's assessments include those of its affiliates.

(h) The commissioners of commerce and health shall each annually issue a public report listing, by health plan company, the actual loss ratios experienced in the individual and small employer markets in this state by the health plan companies that the commissioners respectively regulate. The commissioners shall coordinate release of these reports so as to release them as a joint report or as separate reports issued the same day. The report or reports shall be released no later than June 1 for loss ratios experienced for the preceding calendar year. Health plan companies shall provide to the commissioners any information requested by the commissioners for purposes of this paragraph.

Sec. 8. Minnesota Statutes 2002, section 62A.042, is amended to read:

62A.042 [FAMILY COVERAGE; COVERAGE OF NEWBORN INFANTS.]

Subdivision 1. [INDIVIDUAL FAMILY POLICIES.] (a) No policy of individual accident and sickness insurance which provides for insurance for more than one person under section 62A.03, subdivision 1, clause (3), and no individual health maintenance contract which provides for coverage for more than one person under chapter 62D, shall be renewed to insure or cover any person in this state or be delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered members of the family any newborn infants immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to age 18 the limiting age for coverage of the dependent, including orthodontic and oral surgery treatment, involved in the management of birth

defects known as cleft lip and cleft palate. Benefits for individuals age 19 up to the limiting age for coverage of the dependent are limited to inpatient or outpatient expenses arising from medical and dental treatment that was scheduled or initiated prior to the dependent turning age 19. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

Subd. 2. [GROUP POLICIES.] (a) No group accident and sickness insurance policy and no group health maintenance contract which provide for coverage of family members or other dependents of an employee or other member of the covered group shall be renewed to cover members of a group located in this state or delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered family members or dependents any newborn infants immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may reduce the health benefits owed to the insured, certificate holder, member, or subscriber by the amount of past due premiums applicable to the additional dependent.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to age ~~18~~ the limiting age for coverage of the dependent, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. Benefits for individuals age 19 up to the limiting age for coverage of the dependent are limited to inpatient or outpatient expenses arising from medical and dental treatment that was scheduled or initiated prior to the dependent turning age 19. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision."

Page 11, line 9, strike "\$40" and insert "\$100"

Page 11, line 25, strike "family members," and strike the second comma

Page 18, after line 12, insert:

"Sec. 13. Minnesota Statutes 2002, section 62C.14, subdivision 14, is amended to read:

Subd. 14. [NEWBORN INFANT COVERAGE.] No subscriber's individual contract or any group contract which provides for coverage of family members or other dependents of a subscriber or of an employee or other group member of a group subscriber, shall be renewed, delivered, or issued for delivery in this state unless such contract includes as covered family members or dependents any newborn infants immediately from the moment of birth and thereafter which insurance shall provide coverage for illness, injury, congenital malformation or premature birth. The coverage described in this subdivision includes coverage of cleft lip and cleft palate to the same extent provided in section 62A.042, subdivisions 1, paragraph (b); and 2, paragraph (b). For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy, contract, or agreement covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy, contract, or agreement mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent

until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

Sec. 14. [62E.075] [HIGH DEDUCTIBLE HEALTH PLANS.]

Subdivision 1. [QUALIFIED PLAN.] A high deductible health plan shall be deemed a qualified plan under section 62E.06. The plan must meet all other requirements of state law except those that are inconsistent with a high deductible health plan as defined in sections 220 and 223 of the Internal Revenue Code and implementing regulations.

Subd. 2. [DEFINITION.] For purposes of this section, "high deductible health plans" shall mean those health coverage plans issued by a health plan company as defined under the provisions of sections 220 and 223 of the Internal Revenue Code of 1986, and implementing regulations, as amended from time to time."

Page 18, line 19, delete "the following as claims:" and insert "as a claim the insured's inquiry about a hypothetical claim, or the insured's inquiry to the insured's agent regarding a potential claim."

Page 18, delete lines 20 to 25

Page 20, line 5, delete the first "or" and insert "claim or has made an inquiry to the insured's agent regarding a" and delete everything after "claim"

Page 20, delete lines 6 and 7

Page 20, line 8, delete everything before the period

Pages 24 to 27, delete section 14 and insert:

"Sec. 20. Minnesota Statutes 2002, section 72A.201, subdivision 4, is amended to read:

Subd. 4. [STANDARDS FOR CLAIM FILING AND HANDLING.] The following acts by an insurer, an adjuster, a self-insured, or a self-insurance administrator constitute unfair settlement practices:

(1) except for claims made under a health insurance policy of accident and sickness insurance, after receiving notification of claim from an insured or a claimant, failing to acknowledge receipt of the notification of the claim within ten business days, and failing to promptly provide all necessary claim forms and instructions to process the claim, unless the claim is settled within ten business days. The acknowledgment must include the telephone number of the company representative who can assist the insured or the claimant in providing information and assistance that is reasonable so that the insured or claimant can comply with the policy conditions and the insurer's reasonable requirements. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment must be made in the claim file of the insurer and dated. An appropriate notation must include at least the following information where the acknowledgment is by telephone or oral contact:

- (i) the telephone number called, if any;
- (ii) the name of the person making the telephone call or oral contact;
- (iii) the name of the person who actually received the telephone call or oral contact;
- (iv) the time of the telephone call or oral contact; and
- (v) the date of the telephone call or oral contact;

(2) failing to reply, within ten business days of receipt, to all other communications about a claim from an insured or a claimant that reasonably indicate a response is requested or needed;

(3) (i) unless provided otherwise by clause (ii), other law, or in the policy, failing to complete

its investigation and inform the insured or claimant of acceptance or denial of a claim within 30 business days after receipt of notification of claim unless the investigation cannot be reasonably completed within that time. In the event that the investigation cannot reasonably be completed within that time, the insurer shall notify the insured or claimant within the time period of the reasons why the investigation is not complete and the expected date the investigation will be complete. For claims made under a health policy of accident and sickness insurance, the notification of claim must be in writing;

(ii) for claims submitted under a health plan, as defined in section 62Q.01, subdivision 3, which are accepted, the insurer must notify the insured or claimant no less than semiannually of the disposition of accepted claims of the insured or claimant. For purposes of this clause, acceptance of a claim means that there is no additional financial liability for the insured or claimant, either because there is a flat co-payment amount specified in the health plan or because there is no co-payment owed;

(4) where evidence of suspected fraud is present, the requirement to disclose their reasons for failure to complete the investigation within the time period set forth in clause (3) need not be specific. The insurer must make this evidence available to the Department of Commerce if requested;

(5) failing to notify an insured who has made a notification of claim of all available benefits or coverages which the insured may be eligible to receive under the terms of a policy and of the documentation which the insured must supply in order to ascertain eligibility;

(6) unless otherwise provided by law or in the policy, requiring an insured to give written notice of loss or proof of loss within a specified time, and thereafter seeking to relieve the insurer of its obligations if the time limit is not complied with, unless the failure to comply with the time limit prejudices the insurer's rights and then only if the insurer gave prior notice to the insured of the potential prejudice;

(7) advising an insured or a claimant not to obtain the services of an attorney or an adjuster, or representing that payment will be delayed if an attorney or an adjuster is retained by the insured or the claimant;

(8) failing to advise in writing an insured or claimant who has filed a notification of claim known to be unresolved, and who has not retained an attorney, of the expiration of a statute of limitations at least 60 days prior to that expiration. For the purposes of this clause, any claim on which the insurer has received no communication from the insured or claimant for a period of two years preceding the expiration of the applicable statute of limitations shall not be considered to be known to be unresolved and notice need not be sent pursuant to this clause;

(9) demanding information which would not affect the settlement of the claim;

(10) unless expressly permitted by law or the policy, refusing to settle a claim of an insured on the basis that the responsibility should be assumed by others;

(11) failing, within 60 business days after receipt of a properly executed proof of loss, to advise the insured of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to the provision, condition, or exclusion is included in the denial. The denial must be given to the insured in writing with a copy filed in the claim file;

(12) denying or reducing a claim on the basis of an application which was altered or falsified by the agent or insurer without the knowledge of the insured;

(13) failing to notify the insured of the existence of the additional living expense coverage when an insured under a homeowners policy sustains a loss by reason of a covered occurrence and the damage to the dwelling is such that it is not habitable;

(14) failing to inform an insured or a claimant that the insurer will pay for an estimate of repair if the insurer requested the estimate and the insured or claimant had previously submitted two estimates of repair."

Page 27, line 14, before the period, insert "of the following year"

Page 28, line 30, after "filed" insert "or certified"

Page 29, after line 22, insert:

"Sec. 25. Minnesota Statutes 2003 Supplement, section 79A.04, subdivision 10, is amended to read:

Subd. 10. [NOTICE; OBLIGATION OF FUND.] In the event of bankruptcy, insolvency, or certificate of default, the commissioner shall immediately notify by certified mail the commissioner of finance, the surety, the issuer of an irrevocable letter of credit, and any custodian of the security required in this chapter. At the time of notification, the commissioner shall also call the security and transfer and assign it to the self-insurers' security fund. The commissioner shall also immediately notify by certified mail the self-insurers' security fund, and order the security fund to assume the insolvent self-insurers' obligations for which it is liable under chapter 176. The security fund shall commence payment of these obligations within 14 days of receipt of this notification and order. Payments shall be made to claimants whose entitlement to benefits can be ascertained by the security fund, with or without proceedings before the Department of Labor and Industry, the Office of Administrative Hearings, the Workers' Compensation Court of Appeals, or the Minnesota Supreme Court. Upon the assumption of obligations by the security fund pursuant to the commissioner's notification and order, the security fund has the right to immediate possession of any posted or deposited security and the custodian, surety, or issuer of any irrevocable letter of credit or the commissioner, if in possession of it, shall turn over the security, proceeds of the surety bond, or letter of credit to the security fund together with the interest that has accrued since the date of the self-insured employer's insolvency. The security fund has the right to the immediate possession of all relevant worker's compensation claim files and data of the self-insurer, and the possessor of the files and data must turn the files and data, or complete copies of them, over to the security fund within five days of the notification provided under this subdivision. If the possessor of the files and data fails to timely turn over the files and data to the security fund, it is liable to the security fund for a penalty of \$500 per day for each day after the five-day period has expired. The security fund is entitled to recover its reasonable attorneys fees and costs in any action brought to obtain possession of the worker's compensation claim files and data of the self-insurer, and for any action to recover the penalties provided by this subdivision. The self-insurers' security fund may administer payment of benefits or it may retain a third-party administrator to do so.

Sec. 26. Minnesota Statutes 2002, section 79A.06, subdivision 5, is amended to read:

Subd. 5. [PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF-INSURED.] (a) Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period the employer was self-insured, whether or not reported during that period, the policy will:

(i) discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy;

(ii) discharge any obligation which the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period; and

(iii) discharge the obligations of the employer to pay any future assessments to the self-insurers' security fund.

A private employer who has ceased to be a private self-insurer may instead buy an insurance policy described above, except that it covers only a portion of the period of time during which the private employer was self-insured; purchase of such a policy discharges any obligation that the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period for which the policy provides coverage, whether or not reported during that period.

A policy described in this clause may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(b) With respect to a self-insurer who terminates its self-insurance authority after April 1, 1998, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society within 120 days of the date of its termination. If the actuarial opinion is not timely filed, the self-insurers' security fund may, at its discretion, engage the services of an actuary for this purpose. The expense of this actuarial opinion shall be assessed against and be the obligation of the self-insurer. The commissioner may issue a certificate of default against the self-insurer for failure to pay this assessment to the self-insurers' security fund as provided by section 79A.04, subdivision 9. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment before termination. If the payment is not made within 30 days of the notification, interest on it at the rate prescribed by section 549.09 shall be paid by the former member to the security fund until the principal amount is paid in full.

(c) A former member who terminated its self-insurance authority before April 1, 1998, who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is \$500 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(d) A former member who terminated its self-insurance authority before April 1, 1998, and who is paying assessments within the first seven years after ceasing to be self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability for medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state."

Page 30, after line 4, insert:

"Sec. 28. Minnesota Statutes 2002, section 79A.22, subdivision 11, is amended to read:

Subd. 11. [DISBURSEMENT OF FUND SURPLUS.] (a) ~~One hundred~~ Except as otherwise provided in paragraphs (b) and (c), 100 percent of any surplus money for a fund year in excess of 125 percent of the amount necessary to fulfill all obligations under the Workers' Compensation Act, chapter 176, for that fund year may be declared refundable to ~~a member~~ eligible members at any time. ~~The date shall be no earlier than 18 months following the end of such fund year. The first disbursement of fund surplus may not be made prior to the written approval of the commissioner. There can be no more than one refund made in any 12-month period.~~

(b) Except as otherwise provided in paragraph (c), for groups that have been in existence for five years or more, 100 percent of any surplus money for a fund year in excess of 110 percent of the amount necessary to fulfill all obligations under the Workers' Compensation Act, chapter 176, for that fund year may be declared refundable to eligible members at any time.

(c) Excess surplus distributions under paragraphs (a) and (b) may not be greater than the combined surplus of the group at the time of the distribution.

(d) When all the claims of any one fund year have been fully paid, as certified by an actuary, all surplus money from that fund year may be declared refundable.

~~(b)~~ (e) The commercial self-insurance group shall give ten days' prior notice to the commissioner of any refund. Said notice shall must be accompanied by a statement from the commercial self-insurer group's certified public accountant certifying that the proposed refund is in compliance with paragraph (a) this subdivision.

Sec. 29. Minnesota Statutes 2002, section 79A.22, is amended by adding a subdivision to read:

Subd. 14. [ALL STATES COVERAGE.] Policies issued by commercial self-insurance groups pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, commonly known as "all states coverage." The coverage shall be provided to members of the group which are temporarily performing work in another state."

Page 30, after line 24, insert:

"Sec. 31. [MEDICARE SUPPLEMENT WORKING GROUP.]

The commissioner of commerce shall convene an informal working group of interested parties to address issues related to the stabilization of the Medicare supplemental coverage market in the state. The group must, at a minimum, identify necessary changes to state statutes and regulations resulting from changes made to the Medicare program by Congress; address the implications of regional designations on Minnesota seniors, providers, and health plans; analyze the benefits and

limitations of National Association of Insurance Commissioners policy standardization; review the rating structure and approval process for supplemental policies; analyze the implications on policyholders of closed books of business; review extended basic offer requirements and market practices; recommend implementation strategies for the inclusion of innovative benefits into policies; review the role of the Minnesota Comprehensive Health Association in the supplemental market; and identify coordination strategies with long-term care policies. The working group must consult with the Department of Human Services to assure coordination of the subsidy provisions of the legislation. Interested parties include health plan companies, insurance agents, representatives of senior organizations, and health care providers. The working group must present its findings and recommendations to the legislature by January 15, 2005."

Page 30, line 27, after the second comma, insert "paragraph (a)."

Page 30, line 29, before "Section" insert "Sections 8 and 13 are effective January 1, 2005, and apply to coverage issued or renewed on or after that date." and delete "15" and insert "21" and delete "assessments due" and insert "policies written on or"

Page 30, line 30, delete "2003" and insert "2005"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after "sections" insert "59A.12, subdivision 2;"

Page 1, line 5, after "1;" insert "60A.171, subdivision 11;" and after "60A.969;" insert "62A.042;"

Page 1, line 6, after "62A.318;" insert "62C.14, subdivision 14;"

Page 1, line 9, after the second "3;" insert "79A.06, subdivision 5;" and after "2;" insert "79A.22, subdivision 11, by adding a subdivision;"

Page 1, line 11, delete "section" and insert "sections 62A.021, subdivision 1;" and after "62A.316;" insert "79A.04, subdivision 10;"

Page 1, line 12, delete "chapter" and insert "chapters 62E;"

Page 1, line 14, after "subdivision 2" insert ", paragraph (a)"

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

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

**S.F. No. 1408:** A bill for an act relating to insurance; amending automobile no-fault personal injury protection coverage; changing no-fault arbitration provisions; reducing insurance fraud; amending Minnesota Statutes 2002, sections 65B.525; 65B.56, 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 65B.525, is amended by adding a subdivision to read:

Subd. 3. [ITEMIZATION; FULL PAYMENT.] All arbitration awards must be itemized. A partial award of medical benefits rendered by an arbitrator under this section and paid by an obligor will be considered full and final payment, and the injured party is not liable for, nor may the provider bill the injured party for, charges that are not part of the award. This subdivision does not apply to charges for health care that are not related to the accident.

Sec. 2. Minnesota Statutes 2002, section 65B.525, is amended by adding a subdivision to read:

Subd. 4. [NOTICE TO PROVIDERS.] The itemization of medical services claims required under the rules promulgated by the Supreme Court must include the names and addresses of all health care providers whose charges are the subject of the claims. Within ten business days after receipt of the itemization, the administrator of arbitration under this section must send a copy of the petition and itemization to each health care provider whose charges are the subject of claims, together with a notice of the content of subdivision 3 and of the provider's right to participate as a party to the proceeding. The notice must explain to the provider what steps the provider must take in order to participate."

Amend the title as follows:

Page 1, lines 2 and 3, delete "amending automobile no-fault personal injury protection coverage;"

Page 1, line 5, delete "sections 65B.525;" and insert "section 65B.525, by adding subdivisions."

Page 1, delete line 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 Scheid from the Committee on Commerce, to which was referred**

**S.F. No. 2423:** A bill for an act relating to insurance; requiring discounts on commercial auto policies for taxi service operators whose drivers complete an accident prevention course; proposing coding for new law in Minnesota Statutes, chapter 65B.

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

Delete everything after the enacting clause and insert:

"Section 1. [STUDY OF MOTOR VEHICLE INSURANCE FOR PRIVATE TRANSIT COMPANIES AND TAXI SERVICES.]

The commissioner of commerce must convene a task force, including representatives from the insurance industry, taxi services, private transit companies, and others as appropriate, and provide a written report to the legislature, no later than December 15, 2004, on options to reduce motor vehicle insurance premiums for private transit companies and taxi services. Subjects to be considered by the task force may include:

- (1) measures to increase competition in that insurance market;
- (2) the formulation of purchasing pools for that type of insurance;
- (3) requiring the state to insure or self-insure those vehicles at cost in the same manner in which it insures or self-insures state-owned vehicles;
- (4) granting private transit companies and taxi services the right to join existing insurance pools or arrangements available to political subdivisions;
- (5) providing coverage through the state auto plan;
- (6) legislation to control costs by providing liability damage limits in civil lawsuits; and
- (7) other possible options identified by the commissioner, including, but not limited to, a program modeled after the Transit Mutual Insurance Corporation of Wisconsin."

Delete the title and insert:

"A bill for an act relating to insurance; requiring the commissioner of commerce to convene a

task force and report on options to reduce motor vehicle insurance premiums for private transit companies and taxi services."

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

**Senator Pogemiller from the Committee on Taxes, to which was referred**

**S.F. No. 2547:** A bill for an act relating to taxation; prohibiting amendment of existing rules and adoption of new rules for determination of the value of electric utility property.

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

Delete everything after the enacting clause and insert:

"Section 1. [LEGISLATIVE APPROVAL OF RULES FOR VALUATION OF ELECTRIC UTILITY PROPERTY.]

The Department of Revenue shall not amend existing rules or adopt new rules that prescribe the method of valuing property of electric utilities until the legislature has enacted a law that incorporates the provisions of the proposed rules."

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

**Senator Pogemiller from the Committee on Taxes, to which was re-referred**

**S.F. No. 1991:** A bill for an act relating to the operation of state government; modifying parental contributions; modifying several MFIP provisions; modifying medical assistance estate recovery provisions; eliminating recoveries for alternative care costs; removing liens against life estates and joint tenant interests; limiting income tax deductions; appropriating money; amending Minnesota Statutes 2002, sections 256J.46, by adding a subdivision; 290.01, subdivision 6b; 290.17, subdivisions 2, 4; Minnesota Statutes 2003 Supplement, sections 252.27, subdivision 2a; 256B.15, subdivisions 1, 1a, 2, 3, 4; 256J.21, subdivision 2; 256J.42, subdivision 5; 256J.46, subdivision 1; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.95, subdivision 9; 290.01, subdivision 19d; 514.981, subdivision 6; 524.3-805; repealing Minnesota Statutes 2003 Supplement, sections 256B.15, subdivisions 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k; 256J.37, subdivisions 3a, 3b; 514.991; 514.992; 514.993; 514.994; 514.995.

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

Page 1, delete lines 22 and 23

Pages 28 to 38, delete article 2

Amend the title as follows:

Page 1, lines 7 and 8, delete "limiting income tax deductions;"

Page 1, line 10, delete everything after "subdivision;"

Page 1, line 11, delete "subdivisions 2, 4;"

Page 1, line 16, delete "290.01, subdivision 19d;"

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

**Senator Cohen from the Committee on Finance, to which was re-referred**

**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.

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

Delete the amendment recommended by the Committee on Finance, adopted by the Senate May 14, 2003, and further amend H.F. No. 956 as follows:

Delete everything after the enacting clause and insert:

"Section 1. [STATE AGENCY APPROPRIATIONS.]

The dollar amounts shown in the columns marked "APPROPRIATIONS" and shown in parentheses are subtracted from the general fund appropriations in the laws and to the state agencies indicated. The figures "2004" and "2005" used in this article mean that the appropriation or appropriations listed under them are for the fiscal years ending June 30, 2004, and June 30, 2005, respectively. The commissioner of finance, after notice to the chairs of the senate committee on finance and the house of representatives committee on ways and means, may reallocate these reductions among the listed agencies in order to minimize disruption of state agency operations or maximize the receipt of state revenue, or both.

#### SUMMARY

(General Fund Only)

	2004	2005	TOTAL
APPROPRIATIONS	\$(15,600,000)	\$(26,564,000)	\$(42,164,000)
TRANSFERS IN	-0-	(39,447,000)	(39,447,000)
TOTAL	\$(15,600,000)	\$(66,011,000)	\$(81,611,000)

#### APPROPRIATIONS

Available for the Year  
Ending June 30

	2004	2005
Sec. 2. [2004 REDUCTION.]	(12,000,000)	-0-

The commissioner of finance shall reduce general fund appropriations to executive branch agencies and constitutional officers for state agency operations, and to the legislature, in the fiscal year ending June 30, 2004, by a total of \$12,000,000. This reduction does not apply to the judicial branch or to the Minnesota State Colleges and Universities. The reduction to constitutional officers must be the same percentage of each officer's general fund appropriation. The reduction to the legislature must be \$232,000 to the senate and \$258,000 to the house of representatives. The commissioner shall base the reduction on the amount carried forward from fiscal year 2003 to fiscal year 2004 under Laws 2003, First Special Session chapter 1, article 2, section 127. No positions in the classified service may be eliminated.

Sec. 3. [EDUCATION.]

Subdivision 1. The reductions in this section are from appropriations in Laws 2003, First Special Session chapter 9.

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Subd. 2. EDUCATION	-0-	(1,137,000)
Subd. 3. FARIBAULT STATE ACADEMIES	-0-	(52,000)
Subd. 4. PERPICH CENTER FOR ARTS EDUCATION	-0-	(298,000)
Sec. 4. HIGHER EDUCATION SERVICES OFFICE	(3,600,000)	(1,740,000)

The reductions in this section are from appropriations in Laws 2003, chapter 133.

\$3,600,000 the first year and \$1,600,000 the second year are from the appropriation for interstate reciprocity.

Sec. 5. [ENVIRONMENT, AGRICULTURE  
AND ECONOMIC DEVELOPMENT.]

Subdivision 1. The reductions in this section are from the appropriations in Laws 2003, chapter 128, article 1.

Subd. 2. POLLUTION CONTROL AGENCY	-0-	(468,000)
Subd. 3. OFFICE OF ENVIRONMENTAL ASSISTANCE	-0-	(220,000)
Subd. 4. ZOOLOGICAL BOARD	-0-	(328,000)
Subd. 5. NATURAL RESOURCES	-0-	(3,777,000)
Subd. 6. BOARD OF WATER AND SOIL RESOURCES	-0-	(212,000)
Subd. 7. AGRICULTURE	-0-	(828,000)
Subd. 8. BOARD OF ANIMAL HEALTH	-0-	(140,000)

Sec. 6. [ECONOMIC DEVELOPMENT.]

Subdivision 1. The reductions in this section are from the appropriations in Laws 2003, chapter 128, article 10.

Subd. 2. EMPLOYMENT AND ECONOMIC DEVELOPMENT	-0-	(990,000)
Subd. 3. HOUSING FINANCE AGENCY	-0-	(1,047,000)
Subd. 4. LABOR AND INDUSTRY	-0-	(142,000)
Sec. 7. TRANSPORTATION	-0-	(25,000)

The reductions in this section are from the appropriations in Laws 2003, First Special Session chapter 19.

Sec. 8. [STATE GOVERNMENT.]

Subdivision 1. The reductions in this section are from the appropriations in Laws 2003, First Special Session chapter 1, article 1, and chapter 2.

Subd. 2. GOVERNOR AND LIEUTENANT GOVERNOR	-0-	(180,000)
Subd. 3. STATE AUDITOR	-0-	(415,000)
Subd. 4. ATTORNEY GENERAL	-0-	(1,128,000)
Subd. 5. SECRETARY OF STATE	-0-	(302,000)
Subd. 6. ADMINISTRATION	-0-	(720,000)
Subd. 7. FINANCE	-0-	(760,000)
Subd. 8. EMPLOYEE RELATIONS	-0-	(310,000)
Subd. 9. REVENUE	-0-	(2,337,000)
Subd. 10. MILITARY AFFAIRS	-0-	(370,000)
Subd. 11. VETERANS AFFAIRS	-0-	(130,000)
Subd. 12. COMMERCE	-0-	(578,000)
Subd. 13. HUMAN RIGHTS	-0-	(175,000)
Subd. 14. PUBLIC SAFETY	-0-	(2,617,000)

Sec. 9. [HEALTH AND HUMAN SERVICES.]

Subdivision 1. The reductions in this section are from appropriations in Laws 2003, First Special Session chapter 14, article 13C.

Subd. 2. HUMAN SERVICES	-0-	(3,835,000)
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Notwithstanding Minnesota Statutes, section 295.581, by June 30, 2005, the commissioner of finance shall transfer from the unobligated balance in the health care access fund to the general fund the amount needed to eliminate any negative unrestricted balance in the general fund. The amount transferred is estimated to be \$39,447,000. By July 5, 2005, the commissioner of finance shall transfer the amount that was actually transferred to the general fund back to the health care access fund.

Subd. 3. HEALTH	-0-	(1,153,000)
Subd. 4. VETERANS HOMES BOARD	-0-	(150,000)

Sec. 10. Minnesota Statutes 2003 Supplement, section 15.01, is amended to read:

15.01 [DEPARTMENTS OF THE STATE.]

The following agencies are designated as the departments of the state government: the Department of Administration; the Department of Agriculture; the Department of Commerce; the Department of Corrections; the Department of Education; ~~the Department of Economic Security;~~ the Department of Employee Relations; the Department of Employment and Economic Development; the Department of Finance; the Department of Health; the Department of Human Rights; the Department of Human Services; the Department of Labor and Industry; the Department of Military Affairs; the Department of Natural Resources; ~~the Department of Employee Relations;~~ the Department of Public Safety; ~~the Department of Human Services;~~ the Department of Revenue; the Department of Transportation; the Department of Veterans Affairs; and their successor departments.

Sec. 11. Minnesota Statutes 2003 Supplement, section 15.06, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] This section applies to the following departments or agencies: the Departments of Administration, Agriculture, Commerce, Corrections, ~~Economic Security~~, Education, Employee Relations, Employment and Economic Development, Finance, Health, Human Rights, ~~Human Services~~, Labor and Industry, Natural Resources, Public Safety, ~~Human Services~~, Revenue, Transportation, and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the Office of Commissioner of Iron Range Resources and Rehabilitation; the Bureau of Mediation Services; and their successor departments and agencies. The heads of the foregoing departments or agencies are "commissioners."

Sec. 12. Minnesota Statutes 2002, section 15.06, subdivision 8, is amended to read:

Subd. 8. [NUMBER OF DEPUTY COMMISSIONERS.] ~~Unless specifically authorized by statute, other than section 43A.08, subdivision 2,~~ No department or agency specified in subdivision 1 shall have more than one deputy commissioner.

Sec. 13. Minnesota Statutes 2003 Supplement, section 15A.0815, subdivision 2, is amended to read:

Subd. 2. [GROUP I SALARY LIMITS.] The salaries for positions in this subdivision may not exceed 95 percent of the salary of the governor:

Commissioner of administration;  
Commissioner of agriculture;  
~~Commissioner of education;~~  
Commissioner of commerce;  
Commissioner of corrections;  
~~Commissioner of economic security;~~  
Commissioner of education;  
Commissioner of employee relations;  
Commissioner of employment and economic development;  
Commissioner of finance;  
Commissioner of health;  
Executive director, Higher Education Services Office;  
Commissioner, Housing Finance Agency;  
Commissioner of human rights;  
Commissioner of human services;  
Executive director, State Board of Investment;  
Commissioner of labor and industry;  
Commissioner of natural resources;  
~~Director of Office of Strategic and Long-Range Planning;~~  
Commissioner, Pollution Control Agency;  
Commissioner of public safety;

Commissioner of revenue;

~~Commissioner of employment and economic development;~~

Commissioner of transportation; and

Commissioner of veterans affairs.

Sec. 14. Minnesota Statutes 2002, section 16A.055, subdivision 1, is amended to read:

Subdivision 1. [LIST.] (a) The commissioner shall:

(1) receive and record all money paid into the state treasury and safely keep it until lawfully paid out;

(2) manage the state's financial affairs;

(3) keep the state's general account books according to generally accepted government accounting principles;

(4) keep expenditure and revenue accounts according to generally accepted government accounting principles;

(5) develop, provide instructions for, prescribe, and manage a state uniform accounting system;

(6) provide to the state the expertise to ensure that all state funds are accounted for under generally accepted government accounting principles; and

(7) coordinate the development of, and maintain standards for, internal auditing in state agencies and, in cooperation with the commissioner of administration, report to the legislature and the governor by January 31 of odd-numbered years, on progress made.

(b) As part of the comprehensive annual financial report, the commissioner shall list any laws that require the state's general fund budget not to be reported in accordance with generally accepted governmental accounting principles.

Sec. 15. Minnesota Statutes 2002, section 16A.103, subdivision 1a, is amended to read:

Subd. 1a. [FORECAST PARAMETERS.] The forecast must assume the continuation of current laws and reasonable estimates of projected growth in the national and state economies and affected populations. Revenue must be estimated for all sources provided for in current law. Expenditures must be estimated for all obligations imposed by law and those projected to occur as a result of inflation and variables outside the control of the legislature. ~~Expenditure estimates must not include an allowance for inflation.~~

Sec. 16. Minnesota Statutes 2002, section 16A.103, subdivision 1b, is amended to read:

Subd. 1b. [FORECAST VARIABLE.] In determining the rate of inflation, the application of inflation, the amount of state bonding as it affects debt service, the calculation of investment income, and the other variables to be included in the expenditure part of the forecast, the commissioner must consult with the chairs and lead minority members of the senate ~~State Government Finance Committee~~ and the house Ways and Means Committee, and legislative fiscal staff. This consultation must occur at least three weeks before the forecast is to be released. No later than two weeks prior to the release of the forecast, the commissioner must inform the chairs and lead minority members of the senate ~~State Government Finance Committee~~ and the house Ways and Means Committee, and legislative fiscal staff of any changes in these variables from the previous forecast.

Sec. 17. Minnesota Statutes 2002, section 16A.11, subdivision 2, is amended to read:

Subd. 2. [PART ONE: MESSAGE.] Part one of the budget, the governor's message, shall include the governor's recommendations on the financial policy of the state for the coming

biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the budget for the coming biennium, compared with the corresponding figures for at least the last two completed fiscal years and the current year. The budget plan must include recommendations on how to bring the budget into compliance with generally accepted governmental accounting principles. The budget plan shall be supported by explanatory schedules or statements, classifying its expenditures by agencies and funds, and the income by agencies, sources, funds, and the proposed amount of new borrowing, as well as proposed new tax or revenue sources. The budget plan shall be submitted for all special and dedicated funds, as well as the general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures from them.

Sec. 18. Minnesota Statutes 2002, section 16B.03, is amended to read:

16B.03 [APPOINTMENTS.]

The commissioner is authorized to appoint staff, including ~~two~~ one deputy ~~commissioners~~ commissioner, in accordance with chapter 43A.

Sec. 19. Minnesota Statutes 2002, section 43A.03, subdivision 3, is amended to read:

Subd. 3. [ORGANIZATION.] The commissioner may appoint a deputy commissioner in the unclassified service. The department shall be organized into two bureaus which shall be designated the Personnel Bureau and the Labor Relations Bureau. Each bureau shall be responsible for administering the duties and functions assigned to it by law. When the duties of the bureaus are not mandated by law, the commissioner may establish and revise the assignments of either bureau. ~~Each bureau shall be under the direction of a deputy commissioner.~~

Sec. 20. Minnesota Statutes 2003 Supplement, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) ~~deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the Office of Strategic and Long-Range Planning section 15.06, subdivision 1;~~
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state and state auditor, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the Office of the Adjutant General;
- (7) employees of the Washington, D.C., office of the state of Minnesota;
- (8) employees of the legislature and of legislative committees or commissions; provided that employees of the Legislative Audit Commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (9) presidents, vice-presidents, deans, other managers and professionals in academic and

academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal Economic Opportunity Act work study program in the Perpich Center for Arts Education and the Minnesota State Colleges and Universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(10) officers and enlisted persons in the National Guard;

(11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the Department of Labor and Industry;

(13) members of the State Patrol; provided that selection and appointment of State Patrol troopers must be made in accordance with applicable laws governing the classified service;

(14) chaplains employed by the state;

(15) examination monitors and intermittent training instructors employed by the Departments of Employee Relations and Commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;

(16) student workers;

(17) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;

(18) employees unclassified pursuant to other statutory authority;

(19) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation;

(20) the administrators and the deputy administrators at the state academies for the deaf and the blind; and

(21) chief executive officers in the Department of Human Services.

Sec. 21. Minnesota Statutes 2002, section 43A.17, subdivision 1, is amended to read:

Subdivision 1. [SALARY LIMITS.] As used in subdivisions 1 to 9, "salary" means hourly, monthly, or annual rate of pay including any lump-sum payments and cost-of-living adjustment increases but excluding payments due to overtime worked, shift or equipment differentials, work out of class as required by collective bargaining agreements or plans established under section 43A.18, and back pay on reallocation or other payments related to the hours or conditions under which work is performed rather than to the salary range or rate to which a class is assigned. For presidents of state universities, "salary" does not include a housing allowance provided through a compensation plan approved under section 43A.18, subdivision 3a.

~~The salary, as established in section 15A.0815, of the head of a state agency in the executive branch is~~ The upper limit on the salaries of individual employees in the an agency listed in section 15A.0815 is 88 percent of the salary of the agency head. However, if an agency head is assigned a salary that is would make the salary limit lower than the current salary of another agency employee, the employee retains the salary, but may not receive an increase in salary as long as the salary is above ~~that of the agency head~~ the salary limit. The commissioner may grant exemptions from these upper limits as provided in subdivisions 3 and 4.

Sec. 22. Minnesota Statutes 2002, section 43A.17, subdivision 4, is amended to read:

Subd. 4. [EXCEPTIONS.] (a) The commissioner may without regard to subdivision 1 establish

special salary rates and plans of compensation designed to attract and retain exceptionally qualified doctors of medicine. These rates and plans shall be included in the commissioner's plan. In establishing salary rates and eligibility for nomination for payment at special rates, the commissioner shall consider the standards of eligibility established by national medical specialty boards where appropriate. The incumbents assigned to these special ranges shall be excluded from the collective bargaining process.

(b) The commissioner may without regard to subdivision 1, but subject to collective bargaining agreements or compensation plans, establish special salary rates designed to attract and retain exceptionally qualified employees in the following positions:

- (1) ~~information systems staff;~~
- (2) actuaries in the Departments of Health, Human Services, and Commerce; and
- (3) (2) epidemiologists in the Department of Health.

Sec. 23. Minnesota Statutes 2002, section 45.013, is amended to read:

45.013 [POWER TO APPOINT STAFF.]

The commissioner of commerce may appoint ~~four one deputy commissioners, four assistant commissioners, and an assistant to the commissioner. Those positions, as well as that of and a confidential secretary, are in the unclassified service.~~ The commissioner may appoint other employees necessary to carry out the duties and responsibilities entrusted to the commissioner.

Sec. 24. Minnesota Statutes 2003 Supplement, section 84.01, subdivision 3, is amended to read:

Subd. 3. [EMPLOYEES; DELEGATION.] ~~Subject to the provisions of Laws 1969, chapter 1129, and to other applicable laws~~ The commissioner shall organize the department and employ up to three assistant commissioners, each of whom shall serve at the pleasure of the commissioner in the unclassified service, one of whom shall have responsibility for coordinating and directing the planning of every division within the agency, and such other officers, employees, and agents as the commissioner may deem necessary to discharge the functions of the department, define the duties of such officers, employees, and agents and to delegate to them any of the commissioner's powers, duties, and responsibilities subject to the control of, and under the conditions prescribed by, the commissioner. Appointments to exercise delegated power shall be by written order filed with the secretary of state.

Sec. 25. Minnesota Statutes 2002, section 116.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICE.] (a) The office of commissioner of the Pollution Control Agency is created and is under the supervision and control of the commissioner, who is appointed by the governor under the provisions of section 15.06.

(b) The commissioner may appoint a deputy commissioner ~~and assistant commissioners~~ who shall be in the unclassified service.

(c) The commissioner shall make all decisions on behalf of the agency that are not required to be made by the agency under section 116.02.

Sec. 26. Minnesota Statutes 2002, section 116J.01, subdivision 5, is amended to read:

Subd. 5. [DEPARTMENTAL ORGANIZATION.] (a) The commissioner shall organize the department as provided in section 15.06.

(b) The commissioner may establish divisions and offices within the department. ~~The commissioner may employ four deputy commissioners in the unclassified service. One deputy must direct the Minnesota Trade Office and must be experienced and knowledgeable in matters of international trade. One must direct the Office of Tourism and be knowledgeable in matters of tourism.~~

(c) The commissioner shall:

(1) employ assistants and other officers, employees, and agents that the commissioner considers necessary to discharge the functions of the commissioner's office;

(2) define the duties of the officers, employees, and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under conditions prescribed by the commissioner.

(d) The commissioner shall ensure that there are at least three trade and economic development officers in state offices in nonmetropolitan areas of the state who will work with local units of government on developing local trade and economic development.

Sec. 27. Minnesota Statutes 2002, section 174.02, subdivision 2, is amended to read:

Subd. 2. [UNCLASSIFIED POSITIONS.] ~~The commissioner may establish four positions in the unclassified service at the appoint a deputy and assistant commissioner, assistant to commissioner or and a personal secretary levels. No more than two of these positions shall be at the deputy commissioner level in the unclassified service.~~

Sec. 28. Minnesota Statutes 2002, section 241.01, subdivision 2, is amended to read:

Subd. 2. [DIVISIONS; DEPUTIES DEPUTY.] ~~The commissioner of corrections may appoint and employ no more than two a deputy commissioners commissioner. The commissioner may also appoint a personal secretary, who shall serve at the commissioner's pleasure in the unclassified civil service.~~

Sec. 29. [SALARY ADJUSTMENTS.]

The salary limitations in section 21 are effective July 1, 2004, and each salary that exceeds the limitations in that section must be reduced on that date to comply with the limit, except that a salary set under a collective bargaining agreement need not be reduced on July 1, 2004, but must not be increased thereafter above the salary limit.

The salary of the director of the Higher Education Services Office must be reduced effective July 1, 2004, to the level it was at on July 1, 2003.

Sec. 30. [SPENDING LIMITATIONS.]

An agency in the executive branch may not spend any money for travel outside of the state during the fiscal year ending June 30, 2005.

An agency in the executive branch may not contract or pay for meeting space outside state facilities, for food, or for meeting facilitators or note-takers who are not state employees.

Sec. 31. [DELAY IN CERTIFICATION OF DISTRICT COURT VACANCIES.]

Notwithstanding Minnesota Statutes, section 2.722, subdivision 4, paragraph (a), the supreme court may not certify a vacancy in the position of judge of the district court before June 30, 2005.

Sec. 32. [REPEALER.]

(a) Minnesota Statutes 2002, sections 43A.03, subdivision 4; 43A.08, subdivision 1b; and 116J.01, subdivision 4, are repealed.

(b) Minnesota Statutes 2003 Supplement, section 43A.08, subdivision 1a, is repealed.

Sec. 33. [EFFECTIVE DATE.]

This act is effective the day following final enactment; except that sections 10 to 30 and 32 are effective July 1, 2004."

Delete the title and insert:

"A bill for an act relating to finance; reducing appropriations to state agencies in the executive and legislative branches for fiscal years 2004 and 2005; providing for a loan to the general fund; requiring reports and recommendations to bring the state budget into compliance with generally accepted governmental accounting principles; requiring disclosure of the impact of inflation on state expenditures; reducing the number of deputy and assistant commissioners in state agencies; reducing the number of unclassified positions in state agencies; reducing the upper limit of salaries in state agencies; imposing limitations on state agency spending; providing for a temporary delay in certification of district judge vacancies; amending Minnesota Statutes 2002, sections 15.06, subdivision 8; 16A.055, subdivision 1; 16A.103, subdivisions 1a, 1b; 16A.11, subdivision 2; 16B.03; 43A.03, subdivision 3; 43A.17, subdivisions 1, 4; 45.013; 116.03, subdivision 1; 116J.01, subdivision 5; 174.02, subdivision 2; 241.01, subdivision 2; Minnesota Statutes 2003 Supplement, sections 15.01; 15.06, subdivision 1; 15A.0815, subdivision 2; 43A.08, subdivision 1; 84.01, subdivision 3; repealing Minnesota Statutes 2002, sections 43A.03, subdivision 4; 43A.08, subdivision 1b; 116J.01, subdivision 4; Minnesota Statutes 2003 Supplement, section 43A.08, subdivision 1a."

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

### **SECOND READING OF SENATE BILLS**

S.F. Nos. 2009, 2047, 2114, 1639 and 2884 were read the second time.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Skoglund moved that his name be stricken as a co-author to S.F. No. 982. The motion prevailed.

Senator Kubly moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Cohen be added as chief author to S.F. No. 982. The motion prevailed.

Senator Berglin moved that the names of Senators Skoglund, Higgins and Anderson be added as co-authors to S.F. No. 2676. The motion prevailed.

Senator Bakk moved that the name of Senator Lourey be added as a co-author to S.F. No. 3013. The motion prevailed.

Senator Higgins moved that S.F. No. 1249, No. 32 on General Orders, be stricken and returned to its author. The motion prevailed.

Senator Johnson, D.E. moved that H.F. No. 1961 be withdrawn from the Committee on Crime Prevention and Public Safety and re-referred to the Committee on Finance. The motion prevailed.

### **Senators Metzen, Tomassoni, Knutson, Higgins and Pogemiller introduced--**

**Senate Resolution No. 140:** A Senate resolution congratulating the University of Minnesota women's hockey team on winning the 2004 NCAA women's hockey championship.

Referred to the Committee on Rules and Administration.

### **MEMBERS EXCUSED**

Senators Gaither and Kiscaden were excused from the Session of today.

**ADJOURNMENT**

Senator Johnson, D.E. moved that the Senate do now adjourn until 10:00 a.m., Monday, April 5, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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