

THIRTY-THIRD DAY

St. Paul, Minnesota, Tuesday, April 14, 2009

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Kevin McDonough.

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

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 8, 2009

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 1197 and 1329.

Sincerely,
Tim Pawlenty, Governor

April 8, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2009	Date Filed 2009
1197		15	3:08 p.m. April 8	April 8
1329		16	3:12 p.m. April 8	April 8

Sincerely,
Mark Ritchie
Secretary of State

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. 335: A bill for an act relating to highways; designating the Speaker Irvin N. Anderson Memorial Highway; amending Minnesota Statutes 2008, section 161.14, subdivision 18, by adding a subdivision.

Senate File No. 335 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 7, 2009

CONCURRENCE AND REPASSAGE

Senator Saxhaug moved that the Senate concur in the amendments by the House to S.F. No. 335 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 335: A bill for an act relating to highways; modifying provision governing memorial signs erected on highways; designating the Speaker Irvin N. Anderson Memorial Highway; amending Minnesota Statutes 2008, sections 161.139; 161.14, subdivision 18, by adding a subdivision.

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

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 486, 819 and 878.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 7, 2009

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 486: A bill for an act relating to transportation; highways; removing routes on the trunk highway system.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1183, now on General Orders.

H.F. No. 819: A bill for an act relating to commerce; prohibiting certain unfair Internet ticket sales by original sellers and resellers; proposing coding for new law in Minnesota Statutes, chapter 609.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 759, now on General Orders.

H.F. No. 878: A bill for an act relating to transportation; adding provision governing relocation of highway centerline; modifying provisions relating to county state-aid highways and municipal state-aid streets; regulating placement of advertising devices; providing procedures for plats of lands abutting state rail bank property; amending Minnesota Statutes 2008, sections 161.16, by adding a subdivision; 162.06, subdivision 5; 162.07, subdivision 2; 162.09, subdivision 4; 162.13, subdivision 2; 173.02, by adding subdivisions; 173.16, subdivision 4; 505.03, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 746, now on General Orders.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1921, 1151, 2010 and 1695. The motion prevailed.

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

S.F. No. 1447: A bill for an act relating to human services; making changes to licensing provisions, including data practices, disqualifications, and background study requirements; providing alternate supervision technology for adult foster care licensing; amending Minnesota Statutes 2008, sections 13.46, subdivisions 3, 4; 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.06, subdivision 8; 245A.07, subdivisions 1, 3, 5; 245A.11, by adding a subdivision; 245A.1435; 245A.16, subdivision 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04, subdivision 1; 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 245C.301; 256.045, subdivisions 3, 3b; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1.

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

Page 5, line 4, reinstate the stricken language and delete the new language

Page 5, line 5, delete the new language

Page 7, line 2, delete "345.44" and insert "315.44" and delete "345.44" and insert "315.44"

Page 15, line 25, delete "(c)" and insert "(d)"

Page 15, line 34, after "in" insert "paragraph (e),"

Page 16, line 2, after "under" insert "paragraph (e),"

Page 16, line 6, after "under" insert "paragraph (e),"

Page 16, line 12, after "under" insert "paragraph (e),"

Page 17, line 25, delete "(d)" and insert "(e)"

Page 18, line 5, delete "(b)" and insert "(c)"

Page 32, line 27, after "as" insert "otherwise"

Page 32, line 28, strike "paragraph (b)" and insert "this subdivision"

Page 33, after line 11, insert:

"(d) The commissioner may set aside the disqualification or grant a variance relating to the disqualification of an individual who is disqualified based on the involuntary termination of parental rights under section 260C.301, unless the individual is disqualified in connection with a license to provide family child care or child foster care."

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

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

S.F. No. 518: A bill for an act relating to commerce; regulating debt management and debt settlement services; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; proposing coding for new law as Minnesota Statutes, chapter 332B.

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

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

S.F. No. 1186: A bill for an act relating to crimes; providing for an omnibus sexual conduct technical review bill; amending Minnesota Statutes 2008, sections 609.341, subdivision 11; 609.342, subdivision 1; 609.343, subdivision 1; 609.3455, by adding a subdivision.

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

Page 1, delete section 1

Page 2, delete section 2

Page 3, delete section 3

Page 5, after line 16, insert:

"Sec. 2. Minnesota Statutes 2008, section 628.26, is amended to read:

628.26 LIMITATIONS.

(a) Indictments or complaints for any crime resulting in the death of the victim may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for a violation of section 609.25 may be found or made at any time after the commission of the offense.

(c) Indictments or complaints for violation of section 609.282 may be found or made at any time after the commission of the offense if the victim was under the age of 18 at the time of the offense.

(d) Indictments or complaints for violation of section 609.282 where the victim was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within the later of nine years after the commission of the offense or, ~~if the victim failed to report the offense within this limitation period,~~ within three years after the offense was reported to law enforcement authorities.

(f) Notwithstanding the limitations in paragraph (e), indictments or complaints for violation of sections 609.342 to 609.344 may be found or made and filed in the proper court at any time after commission of the offense, if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. If this evidence is not collected and preserved and the victim was 18 years old or older at the time of the offense, the prosecution must be commenced within nine years after the commission of the offense.

(g) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court within six years after the commission of the offense.

(h) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than \$35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(i) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(j) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

(k) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense.

(l) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

(m) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

(n) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA analysis, as defined in section

299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed on or after that date, and to crimes committed before that date if the limitations period for the crime did not expire before August 1, 2009."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the first semicolon and insert "providing for a mandatory minimum sentence for certain sex offenses;"

Amend the title numbers accordingly

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

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

S.F. No. 799: A bill for an act relating to crime; adding felony theft to the racketeering statute; adding identity theft to the enhanced penalty for theft; amending Minnesota Statutes 2008, sections 609.52, subdivision 3; 609.902, subdivision 4.

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

Pages 1 to 2, delete sections 1 and 2 and insert:

"Section 1. Minnesota Statutes 2008, section 609.902, subdivision 4, is amended to read:

Subd. 4. **Criminal act.** (a) "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09 (marijuana and controlled substance taxation; penalties); 299F.79 (unlawful possession of explosive/blastng agent components); 299F.80 (unlawful possession of explosive/blastng agent); 299F.82 (illegal transfer of explosive/blastng agent); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree manslaughter); 609.205 (second-degree manslaughter); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.228 (great bodily harm caused by distribution of drugs); 609.235 (use of drugs to injure or facilitate crime); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.27 (coercion); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.42 (bribery); 609.48 (perjury); 609.485 (escape from custody); 609.495 (aiding an offender); 609.496 (concealing criminal proceeds); 609.497 (engaging in business of concealing criminal proceeds); 609.498 (tampering with a witness); 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi) (certain theft crimes involving controlled substances or motor vehicles); section 609.52, subdivision 2, clause (1) or (4) (certain theft crimes involving taking movable property of another or theft by swindle); 609.527, if the crime is punishable under subdivision 3, clause (4) (certain identity thefts); 609.528, if the crime is punishable under subdivision 3, clause

(4) (certain possession or sale of stolen/counterfeit checks); 609.53 (receiving stolen property); 609.561 (first-degree arson); 609.562 (second-degree arson); 609.582, subdivision 1 or 2 (first- and second-degree burglary); 609.668, subdivision 6, paragraph (a) (certain explosive and incendiary device crimes); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.713 (terroristic threats); 609.86 (commercial bribery); 609.894, subdivision 3 or 4 (first- and second-degree cellular telephone counterfeiting); 609.895 (counterfeited intellectual property); 624.713 (certain persons not to possess firearms); 624.7191 (metal penetrating bullets); or 626A.02, subdivision 1, if the offense is punishable under section 626A.02, subdivision 4, paragraph (a) (certain interception and disclosure of wire or oral communications crimes). "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16) (certain theft crimes), if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

(b) Words set forth in parentheses after references to sections or subdivisions in this subdivision are mere catchwords, included solely for convenience in reference. They are not substantive and may not be used to construe or limit the meaning of any statutory language.

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

Delete the title and insert:

"A bill for an act relating to public safety; expanding the definition of criminal act in the racketeering crime; amending Minnesota Statutes 2008, section 609.902, subdivision 4."

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

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

S.F. No. 722: A bill for an act relating to public safety; requiring that information on persons civilly committed, found not guilty by reason of mental illness, or incompetent to stand trial be transmitted to the federal National Instant Criminal Background Check System; authorizing certain persons prohibited under state law from possessing a firearm to petition a court for restoration of this right; amending Minnesota Statutes 2008, section 624.713, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 253B.

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

Page 1, line 14, delete the second "or"

Page 1, line 16, delete the comma and insert "; or"

Page 1, after line 16, insert:

"(3) restores a person's ability to possess a firearm under section 609.165, subdivision 1d, or 624.713, subdivision 4,"

Page 1, after line 18, insert:

"Sec. 2. Minnesota Statutes 2008, section 624.713, subdivision 1, is amended to read:

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

(1) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(2) except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(3) a person who is or has ever been confined in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, ~~unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability~~ person's ability to possess a firearm has been restored under subdivision 4;

(4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, ~~unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years~~ person's ability to possess a firearm has been restored under subdivision 4;

(5) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as chemically dependent as defined in section 253B.02, unless the person has completed treatment or the person's ability to possess a firearm has been restored under subdivision 4. Property rights may not be abated but access may be restricted by the courts;

(6) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(7) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(8) except as otherwise provided in clause (9), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(9) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court;

(10) a person who:

(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(iii) is an unlawful user of any controlled substance as defined in chapter 152;

(iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02;

(v) is an alien who is illegally or unlawfully in the United States;

(vi) has been discharged from the armed forces of the United States under dishonorable conditions; or

(vii) has renounced the person's citizenship having been a citizen of the United States; or

(11) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.

~~A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.~~

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

The lifetime prohibition on possessing, receiving, shipping, or transporting firearms for persons convicted or adjudicated delinquent of a crime of violence in clause (2), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993."

Page 2, line 1, delete everything after "shows"

Page 2, line 2, delete "do so,"

Renumber the sections in sequence

Amend the title numbers accordingly

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

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

S.F. No. 1146: A bill for an act relating to public safety; establishing Brandon's law; implementing procedures for investigating missing person cases; establishing the Minnesota Clearinghouse for Missing Persons; amending Minnesota Statutes 2008, sections 13.82, subdivision 23; 299C.51; 299C.52; 299C.53; 299C.54; 299C.55; 299C.56; 299C.565; 390.25, subdivision 2; 626.8454; proposing coding for new law in Minnesota Statutes, chapter 299C.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 299C.51, is amended to read:

299C.51 CITATION.

Sections 299C.51 to ~~299C.53~~ 299C.565 may be cited as the "Minnesota Missing ~~Children's~~ Persons' Act."

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

Sec. 2. Minnesota Statutes 2008, section 299C.52, is amended to read:

299C.52 MINNESOTA MISSING ~~CHILD~~ CHILDREN AND ENDANGERED PERSONS PROGRAM.

Subdivision 1. **Definitions.** As used in sections 299C.52 to ~~299C.56~~ 299C.565, the following terms have the meanings given them:

(a) "Child" means any person under the age of 18 years or any person certified or known to be mentally incompetent.

(b) "CJIS" means Minnesota criminal justice information system.

(c) "Missing" means the status of a ~~child~~ person after a law enforcement agency that has received a report of a missing ~~child~~ person has conducted a preliminary investigation and determined that the ~~child~~ person cannot be located.

(d) "NCIC" means National Crime Information Center.

(e) "Endangered" means that a law enforcement official has received sufficient evidence that the ~~child is with a~~ missing person who presents a threat of immediate ~~is at risk of physical injury to the child or physical or sexual abuse of the child.~~ is at risk of physical injury to the ~~child or physical or sexual abuse of the child.~~ missing person is at risk of physical injury or death. The following circumstances indicate that a missing person is at risk of physical injury or death:

(1) the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;

(2) the person is missing under known dangerous circumstances;

(3) the person is missing more than 30 days;

(4) the person is under the age of 21 and at least one other factor in this paragraph is applicable;

(5) there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;

(6) the person does not have a pattern of running away or disappearing;

(7) the person is mentally impaired;

(8) there is evidence that the person may have been abducted by a noncustodial parent;

(9) the person has been the subject of past threats or acts of violence;

(10) there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or

(11) any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

(f) "DNA" means deoxyribonucleic acid from a human biological specimen.

Subd. 2. **Establishment.** The commissioner of public safety shall maintain a Minnesota missing ~~child~~ children and endangered persons program within the department to enable documented information about missing Minnesota children and endangered persons to be entered into the NCIC computer.

Subd. 3. **Computer equipment and programs.** (a) The commissioner shall provide the necessary computer hardware and computer programs to enter, modify, and cancel information on missing children and endangered persons in the NCIC computer through the CJIS. These programs must provide for search and retrieval of information using the following identifiers: physical description, name and date of birth, name and Social Security number, name and driver's license number, vehicle license number, and vehicle identification number.

(b) The commissioner shall also provide a system for regional, statewide, multistate, and nationwide broadcasts of information on missing children and endangered persons. These broadcasts shall be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the

local law enforcement agency.

Subd. 4. **Authority to enter or retrieve information.** Only law enforcement agencies may enter missing ~~child~~ children and endangered persons information through the CJIS into the NCIC computer or retrieve information through the CJIS from the NCIC computer.

Subd. 5. **Statistical data.** The commissioner shall annually compile and make available statistical information on the number of missing children and endangered persons entered into the NCIC computer and, if available, information on the number located.

Subd. 6. **Rules.** The commissioner may adopt rules in conformance with sections 299C.52 to ~~299C.56~~ 299C.565 to provide for the orderly collection and entry of missing ~~child~~ children and endangered persons information and requests for retrieval of missing ~~child~~ children and endangered persons information.

Subd. 7. **Cooperation with other agencies.** The commissioner shall cooperate with other states and the NCIC in the exchange of information on missing persons.

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

Sec. 3. Minnesota Statutes 2008, section 299C.53, is amended to read:

299C.53 MISSING ~~CHILD~~ PERSONS REPORT; DUTIES OF COMMISSIONER AND LAW ENFORCEMENT AGENCIES.

Subdivision 1. **Investigation and entry of information.** (a) A law enforcement agency shall accept without delay any report of a missing person. The law enforcement agency shall not refuse to accept a missing person report on the basis that:

- (1) the missing person is an adult;
- (2) the circumstances do not indicate foul play;
- (3) the person has been missing for a short amount of time;
- (4) the person has been missing for a long amount of time;
- (5) there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
- (6) the circumstances suggest that the disappearance may be voluntary;
- (7) the reporting person does not have personal knowledge of the facts;
- (8) the reporting person cannot provide all of the information requested by the law enforcement agency;
- (9) the reporting person lacks a familial or other relationship with the missing person; or
- (10) for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing and the whereabouts and welfare of the person are known at the time the report is being made.

A law enforcement agency shall accept missing person reports in person. An agency may also

accept reports by telephone or other electronic means to the extent the reporting is consistent with the agency's policies or practices.

(b) Upon receiving a report of a ~~child~~ child person believed to be missing, a law enforcement agency shall conduct a preliminary investigation to determine whether the ~~child~~ child person is missing, and if missing, whether the person is endangered. If the ~~child~~ child person is initially determined to be missing and endangered, the agency shall immediately consult the Bureau of Criminal Apprehension during the preliminary investigation, in recognition of the fact that the first two hours are critical. If the ~~child~~ child person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the ~~child~~ child person through the CJIS into the NCIC computer. Law enforcement agencies having direct access to the CJIS and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Subd. 2. **Location of missing ~~child~~ child person.** Immediately As soon as is practically possible after a missing ~~child~~ child person is located, the law enforcement agency which located or returned the missing ~~child~~ child person shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the NCIC computer.

Subd. 3. **Missing and endangered ~~children~~ children persons.** If the Bureau of Criminal Apprehension receives a report from a law enforcement agency indicating that a ~~child~~ child person is missing and endangered, the superintendent may assist the law enforcement agency in conducting the preliminary investigation, offer resources, and assist the agency in helping implement the investigation policy with particular attention to the need for immediate action. The law enforcement agency shall promptly notify all appropriate law enforcement agencies in the state and, if deemed appropriate, law enforcement agencies in adjacent states or jurisdictions of any information that may aid in the prompt location and safe return of a missing and endangered person.

Subd. 4. **Federal requirements.** In addition to the provisions of sections 299C.51 to 299C.565, the law enforcement agency and the Bureau of Criminal Apprehension shall comply with requirements provided in federal law on reporting and investigating missing children cases. For purposes of this subdivision, the definition of "child," "children," or "minor" shall be determined in accordance with the applicable federal law.

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

Sec. 4. [299C.535] REQUEST FOR ADDITIONAL INFORMATION ON A MISSING PERSON.

(a) If the person identified in the missing person report remains missing for 30 days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain:

(1) DNA samples from family members and, if possible, from the missing person along with any needed documentation, including consent forms, required for the use of state or federal DNA databases;

(2) dental information and x-rays, and an authorization to release dental information or x-rays of the missing person;

(3) any additional photographs of the missing person that may aid the investigation or an

identification; and

(4) fingerprints.

(b) The law enforcement agency shall immediately determine whether any additional information received on the missing person indicates that the person is endangered.

(c) Any additional information or materials received by the law enforcement agency shall be entered into the applicable state or federal database as soon as possible.

(d) Nothing in this section shall be construed to preclude a law enforcement agency from obtaining any of the materials identified in this section before the 30th day following the filing of the missing person report.

(e) The law enforcement agency shall not be required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person.

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

Sec. 5. Minnesota Statutes 2008, section 299C.54, subdivision 1, is amended to read:

Subdivision 1. **Distribution.** The commissioner shall distribute a missing children persons bulletin on a quarterly basis to local law enforcement agencies, county attorneys, and, in the case of missing children, to public and nonpublic schools. The commissioner shall also make this information accessible to other parties involved in efforts to locate missing children and endangered persons and to other persons as the commissioner considers appropriate.

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

Sec. 6. Minnesota Statutes 2008, section 299C.54, subdivision 2, is amended to read:

Subd. 2. **Photograph.** ~~The commissioner shall provide appropriate local law enforcement agencies with a list of missing children, with an appropriate waiver form to assist the agency in obtaining a photograph of each missing child.~~ Local agencies shall obtain the most recent photograph available for missing children and endangered persons and forward those photographs to the commissioner. The commissioner shall include these photographs, as they become available, in the quarterly bulletins.

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

Sec. 7. Minnesota Statutes 2008, section 299C.54, subdivision 3, is amended to read:

Subd. 3. **Included with mailing.** State and local elected officials and agencies may enclose in their mailings information regarding missing children and endangered persons obtained from law enforcement agencies or from any organization that is recognized as a nonprofit, tax-exempt organization under state or federal law and has an ongoing missing children and endangered persons program. Elected officials and commissioners of state agencies are urged to develop policies to enclose missing children and endangered persons information in mailings when it will not increase postage costs and is otherwise considered appropriate.

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

Sec. 8. Minnesota Statutes 2008, section 299C.54, subdivision 3a, is amended to read:

Subd. 3a. **Collection of data.** Identifying information on missing children and endangered persons entered into the NCIC computer regarding cases that are still active at the time the missing ~~children~~ persons bulletin is compiled ~~each quarter~~ may be included in the bulletin.

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

Sec. 9. Minnesota Statutes 2008, section 299C.55, is amended to read:

299C.55 TRAINING.

The commissioner shall adopt standards for training appropriate personnel concerning the investigation of missing ~~children~~ persons cases.

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

Sec. 10. Minnesota Statutes 2008, section 299C.56, is amended to read:

299C.56 RELEASE OF MEDICAL DATA.

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

(b) "Health care facility" means the office of a dentist or physician, or another medical facility, that is in possession of identifying data.

(c) "Identifying data" means dental or skeletal X-rays, or both, and related information, previously created in the course of providing dental or medical care to a child who has now been reported as missing or a person who has now been reported as missing and endangered.

Subd. 2. **Written declaration.** If a child is reported missing or a person is reported missing and endangered, a law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing child or endangered person is being conducted, and that the identifying data are necessary for the exclusive purpose of furthering the investigation. Notwithstanding chapter 13 or section 144.651, subdivision 16, when a written declaration executed under this subdivision, signed by a peace officer, is presented to a health care facility, the facility shall provide access to the missing ~~child's~~ child or endangered person's identifying data to the law enforcement agency.

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

Sec. 11. Minnesota Statutes 2008, section 299C.565, is amended to read:

299C.565 MISSING PERSON REPORT.

The local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report. In the event any circumstances delay a determination of which law enforcement agency has the responsibility to take a missing person report from an interested party, the Bureau of Criminal Apprehension shall offer prompt guidance to the agencies involved.

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

Sec. 12. [299C.5655] MISSING PERSONS; STANDARDIZED REPORTS AND PROCEDURES.

By September 1, 2009, the superintendent of the Bureau of Criminal Apprehension shall develop:

(1) a standardized form for use by all law enforcement agencies when taking a missing person report; and

(2) a model policy that incorporates standard processes, procedures, and information to be provided to interested persons regarding developments in a missing person case.

In developing the standardized form and model policy, the superintendent of the Bureau of Criminal Apprehension shall convene a working group that includes interested parties and representatives of the Minnesota Chiefs of Police Association, Minnesota Sheriffs' Association, Minnesota Police and Peace Officers Association, and a nonprofit foundation formed to assist in locating the missing persons. The working group shall be funded by private resources.

Sec. 13. Minnesota Statutes 2008, section 390.25, subdivision 2, is amended to read:

Subd. 2. **Report to BCA.** (a) After ~~60~~ 30 days, the coroner or medical examiner shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse information to be entered into federal and state databases that can aid in the identification, including the National Crime Information Center database. The coroner or medical examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for DNA analysis. DNA profiles and information shall be entered by the Bureau of Criminal Apprehension into federal and state DNA databases within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

(b) If a deceased's remains are identified as a missing person, the Bureau of Criminal Apprehension or the lead law enforcement agency shall attempt to locate family members of the deceased person and inform them of the death and location of the deceased person's remains. All efforts to locate and notify family members shall be recorded and retained by the Bureau of Criminal Apprehension or lead law enforcement agency.

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

Sec. 14. Minnesota Statutes 2008, section 626.8454, is amended by adding a subdivision to read:

Subd. 4. **Available resources.** If an agency, board, or local representative reviews or updates its policies for missing children or persons investigations, it may consider the following resources:

(1) nonprofit search and rescue organizations that provide trained animal searches, specialized equipment, and man trackers;

(2) assistance from other law enforcement agencies at the local, state, or federal level, or qualified missing persons organizations;

(3) use of subpoenas or search warrants for electronic and wireless communication devices, computers, and Web sites; and

(4) assistance and services provided by the Civil Air Patrol.

EFFECTIVE DATE. This section is effective July 1, 2009."

Amend the title as follows:

Page 1, line 3, delete "establishing the Minnesota Clearinghouse"

Page 1, line 4, delete "for Missing Persons;"

Amend the title numbers accordingly

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

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

S.F. No. 1799: A bill for an act relating to health; requiring the Board on Aging to convene an Alzheimer's disease working group; requiring a report.

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

Page 1, line 7, delete "convene" and insert "appoint, unless otherwise provided,"

Page 1, line 22, after "two" insert "public"

Page 1, after line 22, insert:

"The appointing authorities under this subdivision must complete their appointments no later than September 1, 2009."

Page 2, line 2, after "recommendations" insert "and findings"

Page 2, line 9, delete "for the purpose of having" and insert "to provide"

Page 2, line 28, before the second "Meetings" insert "The board must select a designee to convene the first meeting of the working group no later than September 1, 2009." and before "must" insert "of the working group"

Page 2, line 30, after the period, insert "The members of the working group shall select a chair from their membership at the first meeting."

Page 2, line 31, before "and" insert "providing the findings" and after "recommendations" insert "of the working group, including any draft legislation necessary to implement the recommendations,"

Page 3, delete subdivision 6 and insert:

"Subd. 6. **Expiration.** This section expires when the report under subdivision 4 is submitted."

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

Senator Rest from the Committee on State and Local Government Operations and

Oversight, to which was referred

S.F. No. 1489: A bill for an act relating to local government; restructuring the Central Lakes Region Sanitary District as an elected body or alternatively providing for its dissolution; amending Laws 2003, chapter 127, article 9, section 2; proposing coding for new law in Minnesota Statutes, chapter 115.

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

Delete everything after the enacting clause and insert:

"Section 1. Laws 2003, chapter 127, article 9, section 9, is amended by adding a subdivision to read:

Subd. 7. Clarification, no election required for local bonds for district disposal system. Notwithstanding Minnesota Statutes, section 475.58, or any other law to the contrary, approval by the electors is not required for either the Central Lakes Region Sanitary District, or its local government units located in whole or in part in the district, to issue obligations to fund any costs associated with the district disposal system, including but not limited to the planning, administration, operation, maintenance, acquisition, betterment, and debt service of the system.

Sec. 2. Laws 2003, chapter 127, article 9, section 9, is amended by adding a subdivision to read:

Subd. 8. Special charges authorized. In order to pay, finance, and enforce collection of costs allocated to it by the district for the planning, administration, operation, maintenance, acquisition, betterment, and debt service of the district disposal system, the governing body of a local government unit may fix special charges with respect to the area of the government unit located in the district or on the entire net tax capacity of all taxable property of the government unit, or some combination of the two:

- (1) by reference to the zoning classification of property being charged;
- (2) by reference to the quantity, pollution qualities, and difficulty of disposal of sewage produced;
- (3) based on the cost of providing planning, administration, operation, maintenance, acquisition, betterment, and debt service on a per parcel basis; or
- (4) on any other equitable basis.

The authority in this subdivision is in addition to that in other provisions of this article and the governing body of a local government unit may by resolution adopted by a majority vote of the governing body employ any combination of tax levy, special assessment, or charges to pay its allocated costs. The amounts levied or fixed to be collected by any authorized means must be designed to approximate the actual allocated costs, and may not greatly exceed the actual allocated costs, together with costs of financing and collection. Any unpaid special charge may be certified to the Douglas County auditor by the township clerk, specifying the amount of the unpaid special charge, the parcel number of the property being charged, the interest rate, and the number of equal installments. The amount so certified shall be spread upon the tax rolls against each listed parcel in the same manner as other taxes, and collected by the county auditor and paid to the government unit along with other taxes or as a special assessment against the property, as provided in Minnesota Statutes, section 429.101. Nothing in this law shall be construed in any way to interfere with the

authority of the governing body of the local governmental unit to employ the special charges.

Sec. 3. Laws 2003, chapter 127, article 9, section 9, is amended by adding a subdivision to read:

Subd. 9. **Town board may levy.** For the purposes of section 9, "governing body" for a town means the town board of supervisors.

Sec. 4. **CENTRAL LAKES REGION SANITARY DISTRICT; DISSOLUTION.**

Subdivision 1. **Application.** This section and section 5 apply to the Central Lakes Region Sanitary District established under Laws 2003, chapter 127, article 9, as amended. The definitions contained in Laws 2003, chapter 127, article 9, as amended, apply to this section and section 5.

Subd. 2. **Resolution of intent to dissolve; publication; cessation of business.** In order to begin the process of dissolution, the board must adopt a resolution of intent to dissolve the district by a vote of two-thirds of the board. At a minimum, the resolution must provide a statement of facts and circumstances justifying the dissolution and a plan for concluding the district's affairs. The board must publish the resolution of intent to dissolve in at least one newspaper of general circulation within the district once per week for two successive weeks after adoption of the resolution. The board must provide a copy of the resolution of intent to dissolve to each property owner in the district. The publication and mailing must be evidenced by affidavits. After adoption of the resolution, publication, and mailing of notices, the district must cease business except as necessary to conclude the district's affairs.

Sec. 5. **CENTRAL LAKES REGION SANITARY SEWER BOARD; RESOLUTION OF DISSOLUTION; DISPOSITION OF ASSETS AND CLAIMS.**

Subdivision 1. **Winding up of district.** After a resolution of intent to dissolve has been adopted and notice provided as required under section 4, the board shall proceed as soon as possible with the actions required in this section.

Subd. 2. **Collection, payment.** The board shall proceed as soon as possible to:

(1) collect or make provision for the collection of all known debts, including unallocated costs due or owing to the district;

(2) pay or make provision for the payment of all known debts, obligations, and liabilities of the district according to their priorities; and

(3) give notice to creditors and claimants of the district's intent to dissolve as provided in subdivision 5.

Subd. 3. **Valuation, disposition of assets.** The board (1) shall identify all assets and property of the district whether tangible or intangible, real or personal, and establish, where possible, a value of the assets and property, and (2) may sell, lease, transfer, or otherwise dispose of all or substantially all of the property and assets of the district. Disposition of assets may be made either to pay all or portions of debts or obligations or to preserve the interest of a local unit of government in the asset.

Subd. 4. **Distribution.** All tangible or intangible property, including money, remaining after the discharge of, or after making adequate provision for the discharge of, the debts, obligations, and liabilities of the district must be distributed to the townships on an equitable basis established by the board.

Subd. 5. **Notice to creditors and claimants.** The district shall give notice of the resolution to each creditor of and claimant against the district known or unknown, present or future, and contingent or noncontingent. Notice to creditors and claimants must be given by publishing the notice once each week for four successive weeks in a legal newspaper of Douglas County and by giving written notice to known creditors and claimants. The notice must contain:

- (1) a statement that the district is in the process of dissolving;
- (2) a statement that the district has properly adopted and noticed a resolution of intent to dissolve;
- (3) a statement identifying the location at which a copy of the executed resolution of intent to dissolve may be inspected;
- (4) the address of the office to which written claims against the district must be presented; and
- (5) the date by which all the claims must be received, which is the later of 60 days after published notice or, with respect to a particular known creditor or claimant, 60 days after the date on which written notice was given to that creditor or claimant. Published notice is deemed given on the date of first publication for the purpose of determining this date.

Subd. 6. **Claims.** (a) The district has 40 days from the receipt of each claim to accept or reject the claim by giving written notice to the person submitting it. A claim not expressly rejected in this manner is deemed accepted. Claims must contain sufficient detail for the district to determine the nature, amount, and validity of the claim. The district may, within the 40 days from receipt of each claim, request additional information from the claimant regarding the claim. A request for additional information shall restart the timeline for submission, acceptance, or rejection.

(b) A creditor or claimant whose claim is rejected by the district has 60 days from the date of rejection to pursue any other remedies with respect to the claim.

(c) A creditor or claimant who fails to file a claim on or before the date set forth in the notice is barred from suing on that claim or otherwise realizing upon or enforcing it against the district or any participating township.

(d) A creditor or claimant whose claim is rejected by the district under paragraph (b) is barred from suing on that claim or otherwise realizing upon or enforcing it against the district or any participating township, if the creditor or claimant does not initiate legal, administrative, or arbitration proceedings with respect to the claim within the time provided in paragraph (b).

Subd. 7. **Resolution of dissolution; when filed; contents; effective date.** (a) The resolution of dissolution must be adopted by a vote of at least two-thirds of the members of the board. The resolution must be filed with the secretary of state after: (1) the 60-day period for submission of claims after notice has expired and the payment of claims of all creditors and claimants filing a claim within that period has been made or provided for; or (2) the period for bringing action on rejected claims has expired and there are no pending judicial, administrative, or arbitration proceedings by or against the district commenced within the time provided.

(b) The resolution of dissolution must state, at a minimum:

(1) the last date on which the notice was given and:

(i) that the payment of all creditors and claimants filing a claim within the 60-day period has

been made or provided for; or

(ii) the period for bringing action on rejected claims has expired;

(2) that the remaining property, assets, and claims of the district have been distributed to the townships, pro rata, based upon the tax capacity of each township's territory within the district, or that adequate provision has been made for that distribution; and

(3) that there are no pending legal, administrative, or arbitration proceedings by or against the district commenced within the time provided or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in a pending proceeding.

(c) When the resolution of dissolution has been filed with the secretary of state, the district is dissolved.

Sec. 6. EFFECTIVE DATE.

This act applies to the townships of Brandon, Carlos, LaGrand, Leaf Valley, Miltona, and Moe, all in Douglas County. This act is effective the day after all of the townships listed have completed local approval as provided in Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Delete the title and insert:

"A bill for an act relating to the Central Lakes Region Sanitary District; exempting certain bonds from elector approval; authorizing special charges; authorizing dissolution of the district; amending Laws 2003, chapter 127, article 9, section 9, by adding subdivisions."

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

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

S.F. No. 191: A bill for an act relating to retirement; extending filing deadlines; requiring written applications; amending disability benefit provisions; amending Minnesota Statutes 2008, sections 352.113, subdivision 4; 352.95, subdivisions 3, 4, 5; 352B.10, subdivision 5, 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:

"ARTICLE 1

MINNESOTA POST RETIREMENT

INVESTMENT FUND DISSOLUTION ACCOMMODATION

Section 1. Minnesota Statutes 2008, section 3A.02, subdivision 3, is amended to read:

Subd. 3. **Appropriation.** The amounts required for payment of retirement allowances provided by this section are appropriated annually to the director from the ~~participation of the legislators retirement plan in the Minnesota postretirement investment fund~~ or from the general fund as provided in section 3A.115. The retirement allowance ~~must be paid~~ is payable monthly to the

recipients entitled to those retirement allowances.

Sec. 2. Minnesota Statutes 2008, section 3A.02, is amended by adding a subdivision to read:

Subd. 6. **Postretirement adjustment eligibility.** A retirement allowance under this section is eligible for postretirement adjustments under section 356.415.

Sec. 3. Minnesota Statutes 2008, section 3A.03, is amended by adding a subdivision to read:

Subd. 3. **Legislators retirement fund.** (a) The legislators retirement fund, a special retirement fund, is created within the state treasury and must be credited with assets equal to the participation of the legislators retirement plan in the Minnesota postretirement investment fund as of June 30, 2009, and any investment proceeds on those assets.

(b) The payment of annuities under section 3A.115, paragraph (b), is appropriated from the legislators retirement fund.

Sec. 4. Minnesota Statutes 2008, section 3A.04, is amended by adding a subdivision to read:

Subd. 2a. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 5. Minnesota Statutes 2008, section 3A.115, is amended to read:

3A.115 RETIREMENT ALLOWANCE APPROPRIATION; POSTRETIREMENT ADJUSTMENT.

(a) The amount necessary to fund the retirement allowance granted under this chapter to a former legislator ~~upon retirement~~ retiring after June 30, 2003, is appropriated from the general fund to the director to pay pension obligations due to the retiree.

(b) The amount necessary to fund the retirement allowance granted under this chapter to a former legislator retiring before July 1, 2003, must be paid from the legislators retirement fund created under section 3A.03, subdivision 3, until the assets of the fund are exhausted and at that time, the amount necessary to fund the retirement allowances under this paragraph is appropriated from the general fund to the director to pay pension obligations to the retiree.

(c) Retirement allowances payable to retired legislators and their survivors under this chapter must be adjusted ~~in the same manner, at the same times, and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to retirees of a participating public pension fund~~ as provided in sections 3A.02, subdivision 6, and 356.415.

Sec. 6. Minnesota Statutes 2008, section 11A.08, subdivision 1, is amended to read:

Subdivision 1. **Membership.** There is created an Investment Advisory Council consisting of 17 members. Ten of these members ~~shall~~ must be experienced in general investment matters. ~~They shall be appointed by the state board~~ The state board must appoint the ten members. The other seven members ~~shall be~~ are: the commissioner of finance; the executive director of the Minnesota State Retirement System; the executive director of the Public Employees Retirement Association; the executive director of the Teachers Retirement Association; a retiree currently receiving benefits from ~~the postretirement investment fund~~ a statewide retirement plan; and two public employees who are active members of funds whose assets are invested by the state board. The governor must

appoint the retiree and the public employees shall be appointed by the governor for four-year terms.

Sec. 7. Minnesota Statutes 2008, section 11A.23, subdivision 1, is amended to read:

Subdivision 1. **Certification of assets not needed for immediate use.** Each executive director administering a retirement fund or plan enumerated in subdivision 4 shall, from time to time, certify to the state board for investment those portions of the assets of the retirement fund or plan which in the judgment of the executive director are not required for immediate use. ~~Assets of the fund or plan required for participation in the Minnesota postretirement adjustment fund, the combined investment fund, or the supplemental investment fund shall be transferred to those funds as provided by sections 11A.01 to 11A.25.~~

Sec. 8. Minnesota Statutes 2008, section 11A.23, subdivision 2, is amended to read:

Subd. 2. **Investment.** Retirement fund assets certified to the state board pursuant to subdivision 1 ~~shall~~ must be invested by the state board subject to the provisions of section 11A.24. Retirement fund assets transferred to the ~~Minnesota postretirement investment fund, the combined investment fund or the supplemental investment fund shall~~ must be invested by the state board as part of those funds.

Sec. 9. Minnesota Statutes 2008, section 352.021, is amended by adding a subdivision to read:

Subd. 5. **Determining applicable law.** An annuity under this chapter must be computed under the law in effect as of the last day for which the employee receives pay, or if on medical leave, the day that the leave terminates. However, if the employee has returned to covered employment following a termination, the employee must have earned at least six months of allowable service following their return in order to qualify for improved benefits resulting from any law change enacted subsequent to that termination.

Sec. 10. Minnesota Statutes 2008, section 352.04, subdivision 1, is amended to read:

Subdivision 1. **Fund created.** (a) There is created a special fund to be known as the general state employees retirement fund. In that fund, employee contributions, employer contributions, and other amounts authorized by law must be deposited.

~~(b) The general state employees retirement plan of the Minnesota State Retirement System must participate in the Minnesota postretirement investment fund. The amounts provided in section 352.119 must be deposited in the Minnesota postretirement investment fund.~~

Sec. 11. Minnesota Statutes 2008, section 352.04, subdivision 12, is amended to read:

Subd. 12. **Fund disbursement restricted.** The general state employees retirement fund ~~and the participation in the Minnesota postretirement investment fund~~ must be disbursed only for the purposes provided by law. The expenses of the system and any benefits provided by law, ~~other than benefits payable from the Minnesota postretirement investment fund,~~ must be paid from the general state employees retirement fund. The retirement allowances, retirement annuities, and disability benefits, as well as refunds of any sum remaining to the credit of a deceased retired employee or a disabled employee must be paid ~~only~~ from the general state employees retirement fund ~~after the needs have been certified and the amounts withdrawn from the participation in the Minnesota postretirement investment fund under section 11A.18.~~ The amounts necessary to make the payments from the general state employees retirement fund ~~and the participation in the~~

Minnesota postretirement investment fund are annually appropriated from these funds that fund for those purposes.

Sec. 12. Minnesota Statutes 2008, section 352.061, is amended to read:

352.061 INVESTMENT BOARD TO INVEST FUNDS.

The director shall, from time to time, certify to the State Board of Investment any portions of the state employees retirement fund that in the judgment of the director are not required for immediate use. ~~Assets from the state employees retirement fund must be transferred to the Minnesota postretirement investment fund as provided in section 11A.18.~~ The State Board of Investment shall invest and reinvest sums so ~~transferred, or certified,~~ in securities that are duly authorized legal investments under section 11A.24.

Sec. 13. Minnesota Statutes 2008, section 352.113, is amended by adding a subdivision to read:

Subd. 13. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 14. Minnesota Statutes 2008, section 352.115, is amended by adding a subdivision to read:

Subd. 14. **Postretirement adjustment eligibility.** A retirement annuity under this section and section 352.116 is eligible for postretirement adjustments under section 356.415.

Sec. 15. Minnesota Statutes 2008, section 352.12, is amended by adding a subdivision to read:

Subd. 2c. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 2, 2a, or 2b is eligible for postretirement adjustments under section 356.415.

Sec. 16. Minnesota Statutes 2008, section 352.75, subdivision 3, is amended to read:

Subd. 3. **Existing retired members and benefit recipients.** As of July 1, 1978, the liability for all retirement annuities, disability benefits, survivorship annuities, and survivor of deceased active employee benefits paid or payable by the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund is transferred to the Minnesota State Retirement System, and is no longer the liability of the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund. ~~The required reserves for retirement annuities, disability benefits, and optional joint and survivor annuities in effect on June 30, 1978, and the required reserves for the increase in annuities and benefits provided under subdivision 6 must be determined using a five percent interest assumption and the applicable Minnesota State Retirement System mortality table and shall be transferred by the Minnesota State Retirement System to the Minnesota postretirement investment fund on July 1, 1978, but shall be considered transferred as of June 30, 1978. The annuity or benefit amount in effect on July 1, 1978, including the increase granted under subdivision 6, must be used for adjustments made under section 11A.18. For persons receiving benefits as survivors of deceased former retirement annuitants, the benefits must be considered as having commenced on the date on which the retirement annuitant began receiving the retirement annuity.~~

Sec. 17. Minnesota Statutes 2008, section 352.75, subdivision 4, is amended to read:

Subd. 4. **Existing deferred retirees.** Any former member of the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund is entitled to a retirement

annuity from the Minnesota State Retirement System if the employee:

(1) is not an active employee of the Transit Operating Division of the former Metropolitan Transit Commission on July 1, 1978; (2) has at least ten years of active continuous service with the Transit Operating Division of the former Metropolitan Transit Commission as defined by the former Metropolitan Transit Commission-Transit Operating Division employees retirement plan document in effect on December 31, 1977; (3) has not received a refund of contributions; (4) has not retired or begun receiving an annuity or benefit from the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund; (5) is at least 55 years old; and (6) submits a valid application for a retirement annuity to the executive director of the Minnesota State Retirement System.

The person is entitled to a retirement annuity in an amount equal to the normal old age retirement allowance calculated under the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document in effect on December 31, 1977, subject to an early retirement reduction or adjustment in amount on account of retirement before the normal retirement age specified in that former Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document.

The deferred retirement annuity of any person to whom this subdivision applies must be augmented. The required reserves applicable to the deferred retirement annuity, determined as of the date the allowance begins to accrue using an appropriate mortality table and an interest assumption of five percent, must be augmented by interest at the rate of five percent per year compounded annually from January 1, 1978, to January 1, 1981, and three percent per year compounded annually from January 1, 1981, to the first day of the month in which the annuity begins to accrue. ~~Upon~~ After the commencement of the retirement annuity, the ~~required reserves for the annuity must be transferred to the Minnesota postretirement investment fund in accordance with subdivision 2 and section 352.119~~ is entitled to postretirement adjustments under section 356.415. On applying for a retirement annuity under this subdivision, the person is entitled to elect a joint and survivor optional annuity under section 352.116, subdivision 3.

Sec. 18. Minnesota Statutes 2008, section 352.911, subdivision 3, is amended to read:

Subd. 3. **Investment.** ~~The correctional employees retirement fund shall participate in the Minnesota postretirement investment fund and in that fund there shall be deposited the amounts provided in section 352.119. The balance of any assets of the fund shall~~ must be deposited in the Minnesota combined investment funds as provided in section 11A.14, if applicable, or otherwise under section 11A.23.

Sec. 19. Minnesota Statutes 2008, section 352.911, subdivision 5, is amended to read:

Subd. 5. **Fund disbursement restricted.** ~~The correctional employees retirement fund and its share of participation in the Minnesota postretirement investment fund shall~~ must be disbursed only for the purposes provided for in the applicable provisions in this chapter. The proportional share of the expenses of the system and any benefits provided in sections section 352.90 to 352.951, other than benefits payable from the Minnesota postretirement investment fund, shall must be paid from the correctional employees retirement fund. The retirement allowances, retirement annuities, the disability benefits, the survivorship benefits, and any refunds of accumulated deductions shall must be paid only from the correctional employees retirement fund after those needs have been certified by the executive director and the amounts withdrawn from the share of participation in

~~the Minnesota postretirement fund under section 11A.18. The amounts necessary to make the payments from the correctional employees retirement fund and the participation in the Minnesota postretirement investment fund are annually appropriated from those funds that fund for those purposes.~~

Sec. 20. Minnesota Statutes 2008, section 352.93, is amended by adding a subdivision to read:

Subd. 7. **Postretirement adjustment eligibility.** A retirement annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 21. Minnesota Statutes 2008, section 352.931, is amended by adding a subdivision to read:

Subd. 6. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 22. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision to read:

Subd. 8. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 23. Minnesota Statutes 2008, section 352B.02, subdivision 1d, is amended to read:

~~Subd. 1d. **Fund revenue and expenses.** The amounts provided for in this section must be credited to the State Patrol retirement fund. All money received must be deposited by the commissioner of finance in the State Patrol retirement fund. The fund must be used to pay the administrative expenses of the retirement fund, and the benefits and annuities provided in this chapter. Appropriate amounts shall be transferred to or withdrawn from the Minnesota postretirement investment fund as provided in section 352B.26.~~

Sec. 24. Minnesota Statutes 2008, section 352B.08, is amended by adding a subdivision to read:

Subd. 4. **Postretirement adjustment eligibility.** A retirement annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 25. Minnesota Statutes 2008, section 352B.10, is amended by adding a subdivision to read:

Subd. 6. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 26. Minnesota Statutes 2008, section 352B.11, is amended by adding a subdivision to read:

Subd. 2e. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 2, 2b, or 2c is eligible for postretirement adjustments under section 356.415.

Sec. 27. Minnesota Statutes 2008, section 352C.10, is amended to read:

352C.10 BENEFIT ADJUSTMENTS.

~~Retirement allowances payable to retired constitutional officers and surviving spouse benefits payable must be adjusted in the same manner, at the same times and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to retirees of a participating public pension fund under section 356.415.~~

Sec. 28. Minnesota Statutes 2008, section 352D.06, subdivision 1, is amended to read:

Subdivision 1. **Annuity; reserves.** When a participant attains at least age 55, terminates from covered service, and applies for a retirement annuity, the cash value of the participant's shares ~~shall~~ must be transferred to the Minnesota postretirement investment general state employees retirement fund and must be used to provide an annuity for the retired employee based upon the participant's age when the benefit begins to accrue according to the reserve basis used by the general state employees retirement plan in determining pensions and reserves. The annuity under this subdivision is eligible for postretirement adjustments under section 356.415.

Sec. 29. Minnesota Statutes 2008, section 352D.065, is amended by adding a subdivision to read:

Subd. 3a. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 30. Minnesota Statutes 2008, section 352D.075, is amended by adding a subdivision to read:

Subd. 2b. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 31. Minnesota Statutes 2008, section 353.06, is amended to read:

353.06 STATE BOARD OF INVESTMENT TO INVEST FUNDS.

The executive director shall from time to time certify to the State Board of Investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. ~~Assets from the public employees retirement fund shall be transferred to the Minnesota postretirement investment fund as provided in section 11A.18.~~ The State Board of Investment shall thereupon invest and reinvest the sum so certified, or transferred, in such securities as are duly authorized as legal investments for state employees retirement fund and shall have authority to sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the board of trustees when such funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities ~~for the state employees retirement fund shall~~ under chapter 11A must apply to the accounting, purchase and sale of securities for the public employees retirement fund.

Sec. 32. Minnesota Statutes 2008, section 353.27, subdivision 1, is amended to read:

Subdivision 1. **Income; disbursements.** There is a special fund known as the "public employees retirement fund," the "retirement fund," or the "fund," which ~~shall~~ must include all the assets of the association. This fund ~~shall~~ must be credited with all contributions, all interest and all other income authorized by law. From this fund there is appropriated the payments authorized by this chapter in the amounts and at such time provided herein, including the expenses of administering the fund, ~~and including the proper share of the Minnesota postretirement investment fund.~~

Sec. 33. Minnesota Statutes 2008, section 353.29, is amended by adding a subdivision to read:

Subd. 9. **Postretirement adjustment eligibility.** An annuity under this section or section 353.30 is eligible for postretirement adjustments under section 356.415.

Sec. 34. Minnesota Statutes 2008, section 353.31, subdivision 1b, is amended to read:

Subd. 1b. **Joint and survivor option.** (a) Prior to payment of a surviving spouse benefit under subdivision 1, the surviving spouse may elect to receive the 100 percent joint and survivor optional annuity under section 353.32, subdivision 1a, rather than a surviving spouse benefit.

(b) If there is a dependent child or children, and the 100 percent joint and survivor optional annuity for the surviving spouse, when added to the dependent children's benefit under subdivisions 1 and 1a, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity under section 353.32, subdivision 1a, must be reduced by the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount under subdivision 1a.

(c) The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement ~~fund~~ adjustments under Minnesota Statutes 2008, section 356.41, through January 1, 2009, and thereafter under section 356.415, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 35. Minnesota Statutes 2008, section 353.31, is amended by adding a subdivision to read:

Subd. 12. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 1 or 1b or section 353.32, subdivision 1a, 1b, or 1c is eligible for postretirement adjustments under section 356.415.

Sec. 36. Minnesota Statutes 2008, section 353.33, subdivision 3b, is amended to read:

Subd. 3b. **Optional annuity election.** A disabled member may elect to receive the normal disability benefit or an optional annuity under section 353.30, subdivision 3. The election of an optional annuity must be made prior to the commencement of payment of the disability benefit. The optional annuity must begin to accrue on the same date as provided for the disability benefit.

(1) If a person who is not the spouse of a member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under sections 353.31, subdivision 1, and 353.32, subdivision 1a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent children, if any, continue to be eligible for survivor benefits under section 353.31, subdivision 1, including the minimum benefit in section 353.31, subdivision 1a. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefits; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, each dependent child will receive ten percent of the

member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under Minnesota Statutes 2008, section 356.41 or section 356.415, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 37. Minnesota Statutes 2008, section 353.33, subdivision 7, is amended to read:

Subd. 7. **Partial reemployment.** If, following a work or non-work-related injury or illness, a disabled person who remains totally and permanently disabled as defined in section 353.01, subdivision 19, has income from employment that is not substantial gainful activity and the rate of earnings from that employment are less than the salary rate at the date of disability or the salary rate currently paid for positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is greater, the executive director shall continue the disability benefit in an amount that, when added to the earnings and any workers' compensation benefit, does not exceed the salary rate at the date of disability or the salary currently paid for positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is higher. The disability benefit under this subdivision may not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with Minnesota Statutes 2008, section 11A.18, subdivision 10, or Minnesota Statutes 2008, section 356.41, through January 1, 2009, and thereafter as provided in section 356.415. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 38. Minnesota Statutes 2008, section 353.33, is amended by adding a subdivision to read:

Subd. 13. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 39. Minnesota Statutes 2008, section 353.651, is amended by adding a subdivision to read:

Subd. 5. **Postretirement adjustment eligibility.** An annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 40. Minnesota Statutes 2008, section 353.656, subdivision 5a, is amended to read:

Subd. 5a. **Cessation of disability benefit.** (a) The association shall cease the payment of any disability benefit the first of the month following the reinstatement of a member to full time or less than full-time service in a position covered by the police and fire fund.

(b) A disability benefit paid to a disabled member of the police and fire plan, that was granted under laws in effect after June 30, 2007, terminates at the end of the month in which the member:

(1) reaches normal retirement age;

(2) if the disability benefit is payable for a 60-month period as determined under subdivisions 1 and 3, as applicable, the first of the month following the expiration of the 60-month period; or

(3) if the disabled member so chooses, the end of the month in which the member has elected to convert to an early retirement annuity under section 353.651, subdivision 4.

(c) If the police and fire plan member continues to be disabled when the disability benefit terminates under this subdivision, the member is deemed to be retired. The individual is entitled to receive a normal retirement annuity or an early retirement annuity under section 353.651, whichever is applicable, as further specified in paragraph (d) or (e). If the individual did not previously elect an optional annuity under subdivision 1a, paragraph (a), the individual may elect an optional annuity under subdivision 1a, paragraph (b).

(d) A member of the police and fire plan who is receiving a disability benefit under this section may, upon application, elect to receive an early retirement annuity under section 353.651, subdivision 4, at any time after attaining age 50, but must convert to a retirement annuity no later than the end of the month in which the disabled member attains normal retirement age. An early retirement annuity elected under this subdivision must be calculated on the disabled member's accrued years of service and average salary as defined in section 353.01, subdivision 17a, and when elected, the member is deemed to be retired.

(e) When an individual's benefit is recalculated as a retirement annuity under this section, the annuity must be based on clause (1) or clause (2), whichever provides the greater amount:

(1) the benefit amount at the time of reclassification, including all prior adjustments provided under Minnesota Statutes 2008, section 11A.18, through January 1, 2009, and thereafter as provided in section 356.415; or

(2) a benefit amount computed on the member's actual years of accrued allowable service credit and the law in effect at the time the disability benefit first accrued, plus any increases that would have applied since that date under section Minnesota Statutes 2008, 11A.18, through January 1, 2009, and thereafter as provided in section 356.415.

Sec. 41. Minnesota Statutes 2008, section 353.656, is amended by adding a subdivision to read:

Subd. 14. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 42. Minnesota Statutes 2008, section 353.657, subdivision 3a, is amended to read:

Subd. 3a. **Maximum and minimum family benefits.** (a) The maximum monthly benefit per family must not exceed the following percentages of the member's average monthly salary as specified in subdivision 3:

(1) 80 percent, if the member's death was a line of duty death; or

(2) 70 percent, if the member's death was not a line of duty death or occurred while the member was receiving a disability benefit that accrued before July 1, 2007.

(b) The minimum monthly benefit per family, including the joint and survivor optional annuity under subdivision 2a, and section 353.656, subdivision 1a, must not be less than the following percentage of the member's average monthly salary as specified in subdivision 3:

(1) 60 percent, if the death was a line of duty death; or

(2) 50 percent, if the death was not a line of duty death or occurred while the member was receiving a disability benefit that accrued before July 1, 2007.

(c) If the maximum under paragraph (a) is exceeded, the monthly benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the applicable maximum. The joint and survivor optional annuity must be restored, plus applicable postretirement adjustments under Minnesota Statutes 2008, section 356.41 or section 356.415, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 43. Minnesota Statutes 2008, section 353.657, is amended by adding a subdivision to read:

Subd. 5. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 44. Minnesota Statutes 2008, section 353.665, subdivision 3, is amended to read:

Subd. 3. **Transfer of assets.** Unless the municipality has elected to retain the consolidation account under subdivision 1, paragraph (b), the assets of the former local police or fire consolidation account must be transferred and upon transfer, the actuarial value of the assets of a former local police or fire consolidation account less an amount equal to the residual assets as determined under subdivision 7, paragraph (f), are the assets of the public employees police and fire fund as of July 1, 1999. ~~The participation of a consolidation account in the Minnesota postretirement investment fund becomes part of the participation of the public employees police and fire fund in the Minnesota postretirement investment fund.~~ The remaining assets, excluding the amounts for distribution under subdivision 7, paragraph (f), become an asset of the public employees police and fire fund. The public employees police and fire fund also must be credited as an asset with the amount of receivable assets under subdivision 7, paragraph (e).

Sec. 45. Minnesota Statutes 2008, section 353A.02, subdivision 14, is amended to read:

Subd. 14. **Ineligible investments.** "Ineligible investments" means any investment security or other asset held by the relief association at or after the initiation of the consolidation procedure which does not comply with the applicable requirements or limitations of sections 11A.09, ~~11A.18,~~ 11A.23, and 11A.24.

Sec. 46. Minnesota Statutes 2008, section 353A.02, subdivision 23, is amended to read:

Subd. 23. **Postretirement adjustment.** "Postretirement adjustment" means any periodic or regular procedure for modifying the amount of a retirement annuity, service pension, disability benefit, or survivor benefit after the start of that annuity, pension, or benefit, including but not limited to modifications of amounts ~~from the Minnesota postretirement investment fund~~ under section ~~11A.18, subdivision 9~~ 356.415, or any benefit escalation or benefit amount modification based on changes in the salaries payable to active police officers or salaried firefighters or changes in a cost-of-living index as provided for in the existing relief association benefit plan.

Sec. 47. Minnesota Statutes 2008, section 353A.05, subdivision 1, is amended to read:

Subdivision 1. **Commission actions.** (a) Upon initiation of consolidation as provided in section 353A.04, the executive director of the commission shall direct the actuary retained under section 356.214 to undertake the preparation of the actuarial calculations necessary to complete the consolidation.

(b) These actuarial calculations shall include for each active member, each deferred former member, each retired member, and each current beneficiary the computation of the present value

of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan and on the basis of the public employees police and fire fund benefit plan. These actuarial calculations shall also include for the total active, deferred, retired, and benefit recipient membership the sum of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan, on the basis of the public employees police and fire fund benefit plan, and on the basis of the benefit plan which produced the largest present value of future benefits for each person. The actuarial calculations shall be prepared using the entry age actuarial cost method for all components of the benefit plan and using the actuarial assumptions applicable to the fund for the most recent actuarial valuation prepared under section 356.215, except that the actuarial calculations on the basis of the existing relief association benefit plan shall be prepared using an interest rate actuarial assumption during the postretirement period which is in the same amount as the interest rate actuarial assumption applicable to the preretirement period. The actuarial calculations shall include the computation of the present value of the initial postretirement adjustment anticipated by the executive director of the state board as payable after the effective date of the consolidation ~~from the Minnesota postretirement investment fund~~ under section ~~11A.18~~ 356.415.

(c) The chief administrative officer of the relief association shall, upon request, provide in a timely manner to the executive director of the commission and to the actuary retained under section 356.214 the most current available information or documents, whichever applies, regarding the demographics of the active, deferred, retired, and benefit recipient membership of the relief association, the financial condition of the relief association, and the existing benefit plan of the relief association.

(d) Upon completion of the actuarial calculations required by this subdivision, the actuary retained under section 356.214 shall issue a report in the form of an appropriate summary of the actuarial calculations and shall provide a copy of that report to the executive director of the commission, the executive director of the Public Employees Retirement Association, the chief administrative officer of the relief association, the chief administrative officer of the municipality in which the relief association is located, and the state auditor.

Sec. 48. Minnesota Statutes 2008, section 353A.05, subdivision 2, is amended to read:

Subd. 2. **State board actions.** (a) Upon approval of consolidation by the membership as provided in section 353A.04, the executive director of the state board shall review the existing investment portfolio of the relief association for compliance with the requirements and limitations set forth in sections 11A.09, 11A.14, ~~11A.18~~, 11A.23, and 11A.24 and for appropriateness for retention in the light of the established investment objectives of the state board. The executive director of the state board, using any reporting service retained by the state board, shall determine the approximate market value of the existing assets of the relief association upon the effective date of consolidation and the transfer of assets from the relief association to the individual relief association consolidation accounts at market value.

(b) The state board may require that the relief association liquidate any investment security or other item of value which is determined to be ineligible or inappropriate for retention by the state board. The liquidation shall occur before the effective date of consolidation and transfer of assets.

(c) If requested to do so by the chief administrative officer of the relief association or of the municipality, the state board shall provide advice on the means and procedures available to liquidate

investment securities and other assets determined to be ineligible or inappropriate.

Sec. 49. Minnesota Statutes 2008, section 353A.08, subdivision 1, is amended to read:

Subdivision 1. **Election of coverage by current retirees.** (a) A person who is receiving a service pension, disability benefit, or survivor benefit is eligible to elect benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage are limited to ~~participation in the Minnesota postretirement investment fund~~ for any future postretirement adjustments under section 356.415 based on the amount of the benefit or pension payable on December 31, if December 31 is the effective date of consolidation, or on the December 1 following the effective date of the consolidation, if other than December 31. The survivor benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage under the public employees police and fire fund benefit plan must be calculated under the relief association benefit plan and is subject to ~~participation in the Minnesota postretirement investment fund~~ for any future postretirement adjustments under section 356.415 based on the amount of the survivor benefit payable.

(b) A survivor benefit calculated under the relief association benefit plan which is first payable after June 30, 1997, to the surviving spouse of a retired member of a consolidation account who, before July 1, 1997, chose to ~~participate in the Minnesota postretirement investment fund~~ adjustments as provided under ~~this subdivision~~ section 356.415 must be increased on the effective date of the survivor benefit on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board and approved by the actuary retained under section 356.214.

(c) By electing the public employees police and fire fund benefit plan, a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least seven months, or any survivor benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least seven months is eligible to receive a partial adjustment payable ~~from the Minnesota postretirement investment fund~~ under section ~~11A.18, subdivision 9~~ 356.415.

(d) The election by any pension or benefit recipient must be made on or before the deadline established by the board of the Public Employees Retirement Association in a manner that recognizes the number of persons eligible to make the election and the anticipated time required to conduct any required benefit counseling.

Sec. 50. Minnesota Statutes 2008, section 353A.08, subdivision 3, is amended to read:

Subd. 3. **Election of coverage by active members.** (a) A person who is an active member of a police or fire relief association, other than a volunteer firefighter, has the option to elect benefit coverage under the relevant provisions of the public employees police and fire fund or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employee police and fire fund benefit plan for

the person electing that benefit coverage are the relevant provisions of the public employee police and fire fund benefit plan applicable to retirement annuities, disability benefits, and survivor benefits, including ~~participation in the Minnesota postretirement investment fund~~ adjustments under section 356.415, but excluding any provisions governing the purchase of credit for prior service or making payments in lieu of member contribution deductions applicable to any period which occurred before the effective date of consolidation.

(b) An active member is eligible to make an election at one of the following times:

(1) within six months of the effective date of consolidation;

(2) between the date on which the active member attains the age of 49 years and six months and the date on which the active member attains the age of 50 years; or

(3) on the date on which the active member terminates active employment for purposes of receiving a service pension or disability benefits, or within 90 days of the date the member terminates active employment and defers receipt of a service pension, whichever applies.

Sec. 51. Minnesota Statutes 2008, section 353A.081, subdivision 2, is amended to read:

Subd. 2. **Election of coverage.** (a) Individuals eligible under subdivision 1 may elect, on a form prescribed by the executive director of the Public Employees Retirement Association, to have survivor benefits calculated under the relevant provisions of the public employees police and fire fund benefit plan or to have survivor benefits calculated under the relief association benefit plan. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage are the relevant provisions of the public employee police and fire fund benefit plan applicable to survivor benefits, including ~~participation in the Minnesota postretirement investment fund~~ adjustments under section 356.415.

(b) If the election results in an increased benefit amount to the surviving spouse eligible under subdivision 1, or to eligible children if there is no surviving spouse, the increased benefit accrues as of the date on which the survivor benefits payable to the survivors from the consolidation account were first paid. The back payment of any increase in prior benefit amounts, plus any postretirement adjustments payable under section ~~356.41~~ 356.415, or any increase payable under the local relief association bylaws is payable as soon as practicable after the effective date of the election.

Sec. 52. Minnesota Statutes 2008, section 353A.09, subdivision 1, is amended to read:

Subdivision 1. **Establishment of consolidation accounts.** (a) The board of trustees of the Public Employees Retirement Association shall establish a separate consolidation account for each local relief association of a municipality that consolidates with the Public Employees Retirement Association. The association shall credit to the consolidation account the assets of the individual consolidating local relief association upon transfer, member contributions received after consolidation under subdivision 4, municipal contributions received after consolidation under subdivision 5, and a proportionate share of any investment income earned after consolidation. From the consolidation account, the association shall pay ~~for the transfer of any required reserves to the Minnesota postretirement investment fund on account of persons electing the type of benefit coverage provided by the public employees police and fire fund under subdivisions 2 and 3 and section 353.271, subdivision 2,~~ the pension and benefit amounts on account of persons electing coverage by the relief association benefit plan under section 353A.08, the benefit amounts ~~not~~

payable from the Minnesota postretirement investment fund on account of persons electing the type of benefit coverage provided by the public employees police and fire fund under section 353A.08, and any direct administrative expenses related to the consolidation account, and the proportional share of the general administrative expenses of the association.

(b) Except as otherwise provided for in this section, the liabilities and the assets of a consolidation account must be considered for all purposes to be separate from the balance of the public employees police and fire fund. The consolidation account must be subject to separate accounting, a separate actuarial valuation, and must be reported as a separate exhibit in any annual financial report or actuarial valuation report of the public employees police and fire consolidation fund, whichever applies. The executive director of the public employees retirement association shall maintain separate accounting records and balances for each consolidation account.

Sec. 53. Minnesota Statutes 2008, section 353A.10, subdivision 2, is amended to read:

Subd. 2. Collection of late contributions. In the event of a refusal by a municipality in which was located a local police or firefighters relief association which has consolidated with the fund to pay to the fund any amount or amounts due under section 353A.09, subdivisions ~~2~~ 4 to 6, the executive director of the public employees retirement association may notify the Department of Revenue, the Department of Finance, and the state auditor of the refusal and commence the necessary procedure to collect the amount or amounts due from the amount of any state aid under sections 69.011 to 69.051, amortization state aid under section 423A.02, or supplemental amortization state aid under Laws 1984, chapter 564, section 48, as amended by Laws 1986, chapter 359, section 20, which is payable to the municipality or to certify the amount or amounts due to the county auditor for inclusion in the next tax levy of the municipality or for collection from other revenue available to the municipality, or both.

Sec. 54. Minnesota Statutes 2008, section 353A.10, subdivision 3, is amended to read:

Subd. 3. Levy and bonding authority. A municipality in which was located a local police or firefighters relief association that has consolidated with the fund may issue general obligation bonds of the municipality to defray all or a portion of the principal amounts specified in section 353A.09, subdivisions ~~2~~ 4 to 6, or certify to the county auditor a levy in the amount necessary to defray all or a portion of the principal amount specified in section 353A.09, subdivisions ~~2~~ 4 to 6, or the annual amount specified in section 353A.09, subdivisions ~~2~~ 4 to 6. The municipality may pledge the full faith, credit, and taxing power of the municipality for the payment of the principal of and interest on the general obligation bonds. Any municipal bond may be issued without an election under section 475.58 and may not be included in the net debt of the municipality for purposes of any charter or statutory debt limitation, nor may any tax levy for the payment of bond principal or interest be subject to any limitation concerning rate or amount established by charter or law.

Sec. 55. Minnesota Statutes 2008, section 353E.01, subdivision 3, is amended to read:

Subd. 3. Investment. ~~(a) The public employees local government correctional service retirement fund participates in the Minnesota postretirement investment fund.~~

~~(b) The amounts provided in section 353.271 must be deposited in that fund.~~

~~(c) The balance of any Assets of the public employees local government correctional service retirement fund must be deposited in the Minnesota combined investment fund as provided in section~~

11A.14, if applicable, or otherwise invested under section 11A.23.

Sec. 56. Minnesota Statutes 2008, section 353E.01, subdivision 5, is amended to read:

Subd. 5. **Fund disbursement restricted.** (a) The public employees local government correctional service retirement fund ~~and its share of participation in the Minnesota postretirement investment fund~~ may be disbursed only for the purposes provided for in this chapter.

(b) The proportional share of the necessary and reasonable administrative expenses of the association and any benefits provided in this chapter, ~~other than benefits payable from the Minnesota postretirement investment fund,~~ must be paid from the public employees local government correctional service retirement fund. Retirement annuities, disability benefits, survivorship benefits, and any refunds of accumulated deductions may be paid only from the correctional service retirement fund after those needs have been certified by the executive director ~~and any applicable amounts withdrawn from the share of participation in the Minnesota postretirement fund under section 11A.18.~~

(c) The amounts necessary to make the payments from the public employees local government correctional service retirement fund ~~and its participation in the Minnesota postretirement investment fund~~ are annually appropriated from those funds for those purposes.

Sec. 57. Minnesota Statutes 2008, section 353E.04, is amended by adding a subdivision to read:

Subd. 7. **Postretirement adjustment eligibility.** An annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 58. Minnesota Statutes 2008, section 353E.06, is amended by adding a subdivision to read:

Subd. 9. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 59. Minnesota Statutes 2008, section 353E.07, is amended by adding a subdivision to read:

Subd. 8. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 60. Minnesota Statutes 2008, section 354.07, subdivision 4, is amended to read:

Subd. 4. **Certification of funds to State Board of Investment.** ~~It shall be~~ is the duty of the board from time to time to certify to the State Board of Investment for investment as much of the funds in its hands as shall not be needed for current purposes. ~~Such funds that are certified as to investment in the postretirement investment fund shall include the amount as required for the total reserves needed for the purposes described in section 354.63.~~ The State Board of Investment shall thereupon transfer such assets to the appropriate fund provided herein, ~~in accordance with the procedure set forth in section 354.63, or~~ invest and reinvest an amount equal to the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for state employees retirement fund and all such securities so transferred or purchased ~~shall~~ must be deposited with the commissioner of finance. All interest from these investments ~~shall~~ must be credited to the ~~appropriate funds~~ teachers retirement fund and used for current purposes ~~or investments, except as hereinafter provided.~~ The State Board of Investment ~~shall have~~ has authority to sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and ~~shall~~ must sell securities

upon request of the officers of the association when such officers determine funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities ~~for the state employees retirement fund shall~~ under chapter 11A must apply to the accounting, purchase and sale of securities for the Teachers' Retirement Association.

Sec. 61. Minnesota Statutes 2008, section 354.33, subdivision 5, is amended to read:

Subd. 5. Retirees not eligible for federal benefits. When any person retires after July 1, 1973, who (1) has ten or more years of allowable service, and (2) does not have any retroactive Social Security coverage by reason of the person's position in the retirement system, and (3) does not qualify for federal old age and survivor primary benefits at the time of retirement, the annuity must be computed under section 354.44, subdivision 2, of the law in effect on June 30, 1969, except that accumulations after June 30, 1957, must be calculated using the ~~same most recent mortality table approved under section 356.215, subdivision 18, and interest assumption as are used to transfer the required reserves to the Minnesota postretirement investment fund~~ using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 62. Minnesota Statutes 2008, section 354.35, is amended by adding a subdivision to read:

Subd. 3. Postretirement adjustment eligibility. An annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 63. Minnesota Statutes 2008, section 354.42, subdivision 1a, is amended to read:

Subd. 1a. Teachers retirement fund. (a) Within the Teachers Retirement Association and the state treasury is created a special retirement fund, which must include all the assets of the Teachers Retirement Association and all revenue of the association. The fund is the continuation of the fund established under Laws 1931, chapter 406, section 2, notwithstanding the repeal of Minnesota Statutes 1973, section 354.42, subdivision 1, by Laws 1974, chapter 289, section 59.

(b) The teachers retirement fund must be credited with all employee and employer contributions, all investment revenue and gains, and all other income authorized by law.

(c) From the teachers retirement fund is appropriated the payments of annuities and benefits authorized by this chapter, ~~the transfers to the Minnesota postretirement investment fund,~~ and the reasonable and necessary expenses of administering the fund and the association.

Sec. 64. Minnesota Statutes 2008, section 354.44, is amended by adding a subdivision to read:

Subd. 7a. Postretirement adjustment eligibility. (a) A retirement annuity under subdivision 2 or 6 is eligible for postretirement adjustments under section 356.415.

(b) Retirement annuities payable from the teachers retirement plan must not be in an amount less than the amount originally determined on the date of retirement and as adjusted on each succeeding January 1 under Minnesota Statutes 2008, section 11A.18, before January 1, 2010, and under section 356.415 after December 31, 2009.

Sec. 65. Minnesota Statutes 2008, section 354.46, is amended by adding a subdivision to read:

Subd. 7. Postretirement adjustment eligibility. A survivor benefit under subdivision 1, 2, 2a, or 2b, is eligible for postretirement adjustments under section 356.415.

Sec. 66. Minnesota Statutes 2008, section 354.48, is amended by adding a subdivision to read:

Subd. 11. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 67. Minnesota Statutes 2008, section 354.55, subdivision 13, is amended to read:

Subd. 13. **Pre-1969 law retirements.** Any person who ceased teaching service prior to July 1, 1968, who has ten years or more of allowable service and left accumulated deductions in the fund for the purpose of receiving when eligible a retirement annuity, and retires ~~shall~~ must have the annuity computed in accordance with the law in effect on June 30, 1969, except that the portion of the annuity based on accumulations after June 30, 1957, under Minnesota Statutes 1967, section 354.44, subdivision 2, and accumulations under Minnesota Statutes 1967, section 354.33, subdivision 1, ~~shall~~ must be calculated using the mortality table established by the board under section 354.07, subdivision 1, and approved under section 356.215, subdivision 18, and the postretirement interest rate assumption specified in section 356.215, ~~to transfer the required reserves to the Minnesota postretirement investment fund subdivision 8.~~

Sec. 68. Minnesota Statutes 2008, section 354.70, subdivision 5, is amended to read:

Subd. 5. **Transfer of assets.** (a) On or before June 30, 2006, the chief administrative officer of the Minneapolis Teachers Retirement Fund Association shall transfer to the Teachers Retirement Association the entire assets of the special retirement fund of the Minneapolis Teachers Retirement Fund Association. The transfer of the assets of the Minneapolis Teachers Retirement Fund Association special retirement fund must include any accounts receivable that are determined by the executive director of the State Board of Investment as reasonably capable of being collected. Legal title to account receivables that are determined by the executive director of the State Board of Investment as not reasonably capable of being collected transfers to Special School District No. 1, Minneapolis, as of the date of the determination of the executive director of the State Board of Investment. If the account receivables transferred to Special School District No. 1, Minneapolis, are subsequently recovered by the school district, the superintendent of Special School District No. 1, Minneapolis, shall transfer the recovered amount to the executive director of the Teachers Retirement Association, in cash, for deposit in the teachers retirement fund, less the reasonable expenses of the school district related to the recovery.

(b) As of June 30, 2006, assets of the special retirement fund of the Minneapolis Teachers Retirement Fund Association are assets of the Teachers Retirement Association to be invested by the State Board of Investment pursuant to the provisions of section 354.07, subdivision 4. The Teachers Retirement Association is the successor in interest to all claims which the Minneapolis Teachers Retirement Fund Association may have or may assert against any person and is the successor in interest to all claims which could have been asserted against the former Minneapolis Teachers Retirement Fund Association, subject to the following exceptions and qualifications:

(1) the Teachers Retirement Association is not liable for any claim against the Minneapolis Teachers Retirement Fund Association, its former board or board members, which is founded upon a claim of breach of fiduciary duty, where the act or acts constituting the claimed breach were not done in good faith;

(2) the Teachers Retirement Association may assert any applicable defense to any claim in any judicial or administrative proceeding that the former Minneapolis Teachers Retirement Fund

Association or its board would otherwise have been entitled to assert;

(3) the Teachers Retirement Association may assert any applicable defense that the Teachers Retirement Association may assert in its capacity as a statewide agency; and

(4) the Teachers Retirement Association shall indemnify any former fiduciary of the Minneapolis Teachers Retirement Fund Association consistent with the provisions of the Public Pension Fiduciary Responsibility Act, in section 356A.11.

(c) From the assets of the former Minneapolis Teachers Retirement Fund Association transferred to the Teachers Retirement Association, an amount equal to the percentage figure that represents the ratio between the market value of the Minnesota postretirement investment fund as of June 30, 2006, and the required reserves of the Minnesota postretirement investment fund as of June 30, 2006, applied to the present value of future benefits payable to annuitants of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, including any postretirement adjustment from the Minnesota postretirement investment fund expected to be payable on January 1, 2007, must be transferred to the Minnesota postretirement investment fund. The executive director of the State Board of Investment shall estimate this ratio at the time of the transfer. By January 1, 2007, after all necessary financial information becomes available to determine the actual funded ratio of the Minnesota postretirement investment fund, the postretirement investment fund must refund to the Teachers Retirement Association any excess assets or the Teachers Retirement Association must contribute any deficiency to the Minnesota postretirement investment fund with interest under Minnesota Statutes 2008, section 11A.18, subdivision 6. The balance of the assets of the former Minneapolis Teachers Retirement Fund Association after the transfer to the Minnesota postretirement investment fund must be credited to the Teachers Retirement Association.

(d) If the assets transferred by the Minneapolis Teachers Retirement Fund Association to the Teachers Retirement Association are insufficient to meet its obligation to the Minnesota postretirement investment fund, additional assets must be transferred by the executive director of the Teachers Retirement Association to meet the amount required.

Sec. 69. Minnesota Statutes 2008, section 354.70, subdivision 6, is amended to read:

Subd. 6. **Benefit calculation.** (a) For every deferred, inactive, disabled, and retired member of the Minneapolis Teachers Retirement Fund Association transferred under subdivision 1, and the survivors of these members, annuities or benefits earned before the date of the transfer, other than future postretirement adjustments, must be calculated and paid by the Teachers Retirement Association under the laws, articles of incorporation, and bylaws of the former Minneapolis Teachers Retirement Fund Association that were in effect relative to the person on the date of the person's termination of active service covered by the former Minneapolis Teachers Retirement Fund Association.

(b) Former Minneapolis Teachers Retirement Fund Association members who retired before July 1, 2006, must receive postretirement adjustments after December 31, 2006, only as provided in Minnesota Statutes 2008, section 11A.18 or section 356.415. All other benefit recipients of the former Minneapolis Teachers Retirement Fund Association must receive postretirement adjustments after December 31, 2006, only as provided in section ~~356.41~~ 356.415.

(c) This consolidation does not impair or diminish benefits for an active, deferred, or retired

member or a survivor of an active, deferred, or retired member under the former Minneapolis Teachers Retirement Fund Association in existence at the time of the consolidation, except that any future guaranteed or investment-related postretirement adjustments must be paid after July 1, 2006, in accordance with paragraph (b), and all benefits based on service on or after July 1, 2006, must be determined only by laws governing the Teachers Retirement Association.

Sec. 70. Minnesota Statutes 2008, section 356.215, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of sections 3.85 and 356.20 to 356.23, each of the terms in the following paragraphs has the meaning given.

(b) "Actuarial valuation" means a set of calculations prepared by an actuary retained under section 356.214 if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation of the benefit plan.

(c) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who is a fellow in the Society of Actuaries.

(d) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual, if the benefit plan is governed by section 69.773, or over the earnings of the individual, if the benefit plan is governed by any other law, between the entry age and the assumed exit age, with the portion of the actuarial present value which is allocated to the valuation year to be the normal cost and the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(e) "Experience study" means a report providing experience data and an actuarial analysis of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(f) "Actuarial value of assets" means:

(1) For the July 1, 2009, actuarial valuation, the market value of all assets as of the preceding June 30, 2009, reduced by:

~~(1) (i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the June 30 that occurred three years earlier, 2006, and the June 30 that occurred four years earlier, 2005, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2005;~~

~~(2) (ii) 40 percent of the difference between the actual net change in the market value of assets~~

other than the Minnesota postretirement investment fund between the June 30 that occurred two years earlier, 2007, and the June 30 that occurred three years earlier, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;

(3) (iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the June 30 that occurred one year earlier, 2008, and the June 30 that occurred two years earlier, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred two years earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007; and

(4) (iv) 80 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the immediately prior June 30, 2009, and the June 30 that occurred one year earlier, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008; and

(v) if applicable, 80 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(2) For the July 1, 2010, actuarial valuation, the market value of all assets as of June 30, 2010, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2007, and June 30, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008,

and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009; and

(v) if applicable, 60 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(3) For the July 1, 2011, actuarial valuation, the market value of all assets as of June 30, 2011, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(iii) 60 percent of the difference between the actual net change in the market value of the total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of the total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010; and

(v) if applicable, 40 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(4) For the July 1, 2012, actuarial valuation, the market value of all assets as of June 30, 2012, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2012, and June 30, 2011, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2011; and

(v) if applicable, 20 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(5) For the July 1, 2013, and following actuarial valuations, the market value of all assets as of the preceding June 30, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred three years earlier and the June 30 that occurred four years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred two years earlier and the June 30 that occurred three years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred one year earlier and the June 30 that occurred two years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate

assumption used in the actuarial valuation for the July 1 that occurred two years earlier; and

(iv) 80 percent of the difference between the actual net change in the market value of total assets between the most recent June 30 and the June 30 that occurred one year earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier.

(g) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations, reduced by the sum of the actuarial value of assets and the present value of future normal costs.

(h) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

Sec. 71. Minnesota Statutes 2008, section 356.215, subdivision 11, is amended to read:

Subd. 11. Amortization contributions. (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation of the retirement plan must contain an exhibit for financial reporting purposes indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability and must contain an exhibit for contribution determination purposes indicating the additional contribution sufficient to amortize the unfunded actuarial accrued liability. For the retirement plans listed in subdivision 8, paragraph (c), the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared, assuming annual payroll growth at the applicable percentage rate set forth in subdivision 8, paragraph (c). For all other retirement plans, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any retirement plan other than the Minneapolis Employees Retirement Fund, the general employees retirement plan of the Public Employees Retirement Association, and the St. Paul Teachers Retirement Fund Association, if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by itself or by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding is the first actuarial valuation date occurring after June 1, 2020.

(c) For any retirement plan other than the Minneapolis Employees Retirement Fund and the general employees retirement plan of the Public Employees Retirement Association, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by itself or by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be

determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 8 in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 8 in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 8 in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the Minneapolis Employees Retirement Fund, the established date for full funding is June 30, 2020.

(e) For the general employees retirement plan of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(f) For the Teachers Retirement Association, the established date for full funding is June 30, 2037.

(g) For the correctional state employees retirement plan of the Minnesota State Retirement System, the established date for full funding is June 30, 2038.

(h) For the judges retirement plan, the established date for full funding is June 30, 2038.

(i) For the public employees police and fire retirement plan, the established date for full funding is June 30, 2038.

(j) For the St. Paul Teachers Retirement Fund Association, the established date for full funding is June 30 of the 25th year from the valuation date. In addition to other requirements of this chapter, the annual actuarial valuation shall contain an exhibit indicating the funded ratio and the deficiency or sufficiency in annual contributions when comparing liabilities to the market value of the assets of the fund as of the close of the most recent fiscal year.

(k) For the retirement plans for which the annual actuarial valuation indicates an excess of valuation assets over the actuarial accrued liability, the valuation assets in excess of the actuarial accrued liability must be recognized as a reduction in the current contribution requirements by an amount equal to the amortization of the excess expressed as a level percentage of pay over a 30-year period beginning anew with each annual actuarial valuation of the plan.

~~(l) In addition to calculating the unfunded actuarial accrued liability of the retirement plan for financial reporting purposes under paragraphs (a) to (j), the actuarial valuation of the retirement plan must also include a calculation of the unfunded actuarial accrued liability of the retirement plan for purposes of determining the amortization contribution sufficient to amortize the unfunded actuarial liability of the Minnesota Post Retirement Investment Fund. For this exhibit, the calculation must be the unfunded actuarial accrued liability net of the postretirement adjustment liability funded from the investment performance of the Minnesota Post Retirement Investment Fund or the retirement benefit fund.~~

Sec. 72. Minnesota Statutes 2008, section 356.351, subdivision 2, is amended to read:

Subd. 2. **Incentive.** (a) For an employee eligible under subdivision 1, if approved under paragraph (b), the employer may provide an amount up to \$17,000, to an employee who terminates service, to be used:

(1) unless the appointing authority has designated the use under clause (2) or the use under clause (3) for the initial retirement incentive applicable to that employing entity under Laws 2007, chapter 134, after May 26, 2007, for deposit in the employee's account in the health care savings plan established by section 352.98;

(2) notwithstanding section 352.01, subdivision 11, or 354.05, subdivision 13, whichever applies, if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to that employing entity under Laws 2007, chapter 134, after May 26, 2007, for purchase of service credit for unperformed service sufficient to enable the employee to retire under section 352.116, subdivision 1, paragraph (b); 353.30; 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies; or

(3) if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to the employing entity under Laws 2007, chapter 134, after May 26, 2007, for purchase of a lifetime annuity or an annuity for a specific number of years from the applicable retirement plan to provide additional benefits, as provided in paragraph (d).

(b) Approval to provide the incentive must be obtained from the commissioner of finance if the eligible employee is a state employee and must be obtained from the applicable governing board with

respect to any other employing entity. An employee is eligible for the payment under paragraph (a), clause (2), if the employee uses money from a deferred compensation account that, combined with the payment under paragraph (a), clause (2), would be sufficient to purchase enough service credit to qualify for retirement under section 352.116, subdivision 1, paragraph (b); 353.30, subdivision 1a; 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies.

(c) The cost to purchase service credit under paragraph (a), clause (2), must be made in accordance with section 356.551.

(d) The annuity purchase under paragraph (a), clause (3), must be made using annuity factors, as determined by the actuary retained under section 356.214, derived from the applicable factors used by the applicable retirement plan ~~to transfer amounts to the Minnesota postretirement investment fund and~~ to calculate optional annuity forms. The purchased annuity must be the actuarial equivalent of the incentive amount.

Sec. 73. [356.415] POSTRETIREMENT ADJUSTMENTS; STATEWIDE RETIREMENT PLANS.

Subdivision 1. Annual postretirement adjustments. (a) Retirement annuity, disability benefit, or survivor benefit recipients of a covered retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 12 full months prior to the January 1 increase; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least one full month, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1 following the year in which the person has been retired for less than 12 months.

(b) The increases provided by this section commence on January 1, 2010.

(c) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the covered retirement plan requesting that the increase not be made.

(d) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment as provided in section 353.29, subdivision 6, or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 for section 353.29, subdivision 6, or age 62, 65, or normal retirement age, as selected by the member at retirement, for an annuity amount payable under section 354.35. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Subd. 2. Covered retirement plans. The provisions of this section apply to the following retirement plans:

(1) the legislators retirement plan established under chapter 3A;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(4) the State Patrol retirement plan established under chapter 352B;

(5) the elective state officers retirement plan established under chapter 352C;

(6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353;

(7) the public employees police and fire retirement plan of the Public Employees Retirement Association established under chapter 353;

(8) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;

(9) the teachers retirement plan established under chapter 354; and

(10) the judges retirement plan established under chapter 490.

Sec. 74. Minnesota Statutes 2008, section 490.123, subdivision 1, is amended to read:

Subdivision 1. **Fund creation; revenue and authorized disbursements.** (a) There is created a special fund to be known as the "judges' retirement fund."

(b) The judges' retirement fund must be credited with all contributions; all interest, dividends, and other investment proceeds; and all other income authorized by this chapter or other applicable law.

(c) From this fund there are appropriated the payments authorized by this chapter, in the amounts and at the times provided, including the necessary and reasonable expenses of the Minnesota State Retirement System in administering the fund ~~and the transfers to the Minnesota postretirement investment fund.~~

Sec. 75. Minnesota Statutes 2008, section 490.123, subdivision 3, is amended to read:

Subd. 3. **Investment.** (a) The executive director of the Minnesota State Retirement System shall, from time to time, certify to the State Board of Investment such portions of the judges' retirement fund as in the director's judgment may not be required for immediate use.

~~(b) Assets from the judges' retirement fund must be transferred to the Minnesota postretirement investment fund for retirement and disability benefits as provided in sections 11A.18 and 352.119.~~

~~(c)~~ (b) The State Board of Investment shall thereupon invest and reinvest sums so transferred, or certified, in such securities as are duly authorized legal investments for such purposes under section 11A.24 in compliance with sections 356A.04 and 356A.06.

Sec. 76. Minnesota Statutes 2008, section 490.124, is amended by adding a subdivision to read:

Subd. 14. **Postretirement adjustment eligibility.** A retirement annuity under subdivision 1, 3, or 5, a disability benefit under subdivision 4, and a survivor's annuity under subdivision 9 or 11 are

eligible for postretirement adjustments under section 356.415.

Sec. 77. **REPEALER.**

Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, and 4; 352B.26, subdivisions 1 and 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2 and 3; 354.05, subdivision 26; 354.55, subdivision 14; 354.63; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; and 490.123, subdivisions 1c and 1e, are repealed.

Sec. 78. **EFFECTIVE DATE.**

Sections 1 to 77 are effective July 1, 2009.

ARTICLE 2

DISABILITY BENEFIT PROVISION CHANGES

Section 1. Minnesota Statutes 2008, section 43A.34, subdivision 4, is amended to read:

Subd. 4. **Officers exempted.** Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973, and who are members of the State Patrol retirement fund by reason of their employment, and members of the Minnesota State Patrol Division and Alcohol and Gambling Enforcement Division of the Department of Public Safety who are members of the State Patrol Retirement Association by reason of their employment, ~~shall~~ may not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to section ~~352B.01~~ 352B.011, subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the State Patrol retirement fund by reason of their employment before July 1, 1973, ~~shall~~ may not continue employment after attaining the age of 70 years.

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

Sec. 2. Minnesota Statutes 2008, section 299A.465, subdivision 1, is amended to read:

Subdivision 1. **Officer or firefighter disabled in line of duty.** (a) This subdivision applies to any peace officer or firefighter:

(1) who the Public Employees Retirement Association or the Minnesota State Retirement System determines is eligible to receive a duty disability benefit pursuant to section 353.656 or 352B.10, subdivision 1, respectively; or

(2) who (i) does not qualify to receive disability benefits by operation of the eligibility requirements set forth in section 353.656, subdivision 1, paragraph (b), (ii) retires pursuant to section 353.651, subdivision 4, or (iii) is a member of a local police or salaried firefighters relief association and qualifies for a duty disability benefit under the terms of plans of the relief associations, and the peace officer or firefighter described in item (i), (ii), or (iii) has discontinued public service as a peace officer or firefighter as a result of a disabling injury and has been determined, by the Public Employees Retirement Association, to have otherwise met the duty disability criteria set forth in section 353.01, subdivision 41.

(b) A determination made on behalf of a peace officer or firefighter described in paragraph (a),

clause (2), must be at the request of the peace officer or firefighter made for the purposes of this section. Determinations made in accordance with paragraph (a) are binding on the peace officer or firefighter, employer, and state. The determination must be made by the executive director of the Public Employees Retirement Association or by the executive director of the Minnesota State Retirement System, whichever applies, and is not subject to section 356.96, subdivision 2. Upon making a determination, the executive director shall provide written notice to the peace officer or firefighter and the employer. This notice must include:

(1) a written statement of the reasons for the determination;

(2) a notice that the person may petition for a review of the determination by requesting that a contested case be initiated before the Office of Administrative Hearings, the cost of which must be borne by the peace officer or firefighter and the employer; and

(3) a statement that any person who does not petition for a review within 60 days is precluded from contesting issues determined by the executive director in any other administrative review or court procedure.

If, prior to the contested case hearing, additional information is provided to support the claim for duty disability as defined in section 353.01, subdivision 41, or 352B.011, subdivision 7, whichever applies, the executive director may reverse the determination without the requested hearing. If a hearing is held before the Office of Administrative Hearings, the determination rendered by the judge conducting the fact-finding hearing is a final decision and order under section 14.62, subdivision 2a, and is binding on the applicable executive director, the peace officer or firefighter, employer, and state. Review of a final determination made by the Office of Administrative Hearings under this section may only be obtained by writ of certiorari to the Minnesota Court of Appeals under sections 14.63 to 14.68. Only the peace officer or firefighter, employer, and state have standing to participate in a judicial review of the decision of the Office of Administrative Hearings.

(c) The officer's or firefighter's employer shall continue to provide health coverage for:

(1) the officer or firefighter; and

(2) the officer's or firefighter's dependents if the officer or firefighter was receiving dependent coverage at the time of the injury under the employer's group health plan.

(d) The employer is responsible for the continued payment of the employer's contribution for coverage of the officer or firefighter and, if applicable, the officer's or firefighter's dependents. Coverage must continue for the officer or firefighter and, if applicable, the officer's or firefighter's dependents until the officer or firefighter reaches or, if deceased, would have reached the age of 65. However, coverage for dependents does not have to be continued after the person is no longer a dependent.

EFFECTIVE DATE. This section is effective the day following final enactment and also applies to any member of the State Patrol retirement plan who was awarded a duty disability benefit on or after July 1, 2008.

Sec. 3. Minnesota Statutes 2008, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** "State employee" does not include:

(1) students employed by the University of Minnesota, or the state colleges and universities, unless approved for coverage by the Board of Regents of the University of Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, whichever is applicable;

(2) employees who are eligible for membership in the state Teachers Retirement Association, except employees of the Department of Education who have chosen or may choose to be covered by the general state employees retirement plan of the Minnesota State Retirement System instead of the Teachers Retirement Association;

(3) employees of the University of Minnesota who are excluded from coverage by action of the Board of Regents;

(4) officers and enlisted personnel in the National Guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(5) election officers;

(6) persons who are engaged in public work for the state but who are employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(7) officers and employees of the senate, or of the house of representatives, or of a legislative committee or commission who are temporarily employed;

(8) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the Department of Labor and Industry;

(9) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota Veterans Home;

(10) persons who are employed for professional services where the service is incidental to their regular professional duties and whose compensation is paid on a per diem basis;

(11) employees of the Sibley House Association;

(12) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its full-time secretary;

(13) state troopers and persons who are described in section ~~352B.01, subdivision 2~~ 352B.011, subdivision 10, clauses (2) to ~~(6)~~ (8);

(14) temporary employees of the Minnesota State Fair who are employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons who are employed at any time by the state fair administration for special events held on the fairgrounds;

(15) emergency employees who are in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee ~~shall~~ must be considered a "state employee" retroactively to

the beginning of the pay period;

(16) temporary employees in the classified service, and temporary employees in the unclassified service who are appointed for a definite period of not more than six months and who are employed less than six months in any one-year period;

(17) interns hired for six months or less and trainee employees, except those listed in subdivision 2a, clause (8);

(18) persons whose compensation is paid on a fee basis or as an independent contractor;

(19) state employees who are employed by the Board of Trustees of the Minnesota State Colleges and Universities in unclassified positions enumerated in section 43A.08, subdivision 1, clause (9);

(20) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the Teachers Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for incidental employment as a state employee that is not covered by one of the teacher retirement associations or systems;

(21) employees of the adjutant general who are employed on an unlimited intermittent or temporary basis in the classified or unclassified service for the support of Army and Air National Guard training facilities;

(22) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

(23) examination monitors who are employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(24) persons who are appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(25) temporary employees who are employed for limited periods under any state or federal program for training or rehabilitation, including persons who are employed for limited periods from areas of economic distress, but not including skilled and supervisory personnel and persons having civil service status covered by the system;

(26) full-time students who are employed by the Minnesota Historical Society intermittently during part of the year and full-time during the summer months;

(27) temporary employees who are appointed for not more than six months, of the Metropolitan Council and of any of its statutory boards, if the board members are appointed by the Metropolitan Council;

(28) persons who are employed in positions designated by the Department of Finance as student workers;

(29) members of trades who are employed by the successor to the Metropolitan Waste Control Commission, who have trade union pension plan coverage under a collective bargaining agreement,

and who are first employed after June 1, 1977;

(30) off-duty peace officers while employed by the Metropolitan Council;

(31) persons who are employed as full-time police officers by the Metropolitan Council and as police officers are members of the public employees police and fire fund;

(32) persons who are employed as full-time firefighters by the Department of Military Affairs and as firefighters are members of the public employees police and fire fund;

(33) foreign citizens with a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended; and

(34) persons who are employed by the Board of Trustees of the Minnesota State Colleges and Universities and who elected to remain members of the Public Employees Retirement Association or the Minneapolis Employees Retirement Fund, whichever applies, under Minnesota Statutes 1994, section 136C.75.

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

Sec. 4. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17a. **Occupational disability.** "Occupational disability," for purposes of determining eligibility for disability benefits for a correctional employee, means a disabling condition that is expected to prevent the correctional employee, for a period of not less than 12 months, from performing the normal duties of the position held by the correctional employee.

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

Sec. 5. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17b. **Duty disability, physical or psychological.** "Duty disability, physical or psychological," for a correctional employee, means an occupational disability that is the direct result of an injury incurred during, or a disease arising out of, the performance of normal duties or the performance of less frequent duties either of which are specific to the correctional employee.

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

Sec. 6. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17c. **Regular disability, physical or psychological.** "Regular disability, physical or psychological," for a correctional employee, means an occupational disability resulting from a disease or an injury that arises from any activities while not at work or from activities while at work performing normal or less frequent duties that do not present inherent dangers specific to covered correctional positions.

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

Sec. 7. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17d. **Normal duties.** "Normal duties" means specific tasks designated in the applicant's

job description and which the applicant performs on a day-to-day basis, but do not include less frequent duties which may be requested to be done by the employer from time to time.

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

Sec. 8. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17e. **Less frequent duties.** "Less frequent duties" means tasks designated in the applicant's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the applicant's job.

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

Sec. 9. Minnesota Statutes 2008, section 352.113, subdivision 4, is amended to read:

Subd. 4. **Medical or psychological examinations; authorization for payment of benefit.** (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for total and permanent disability.

(b) The director shall have the employee examined by at least one additional licensed chiropractor, physician, or psychologist designated by the medical adviser. The chiropractors, physicians, or psychologists shall make written reports to the director concerning the employee's disability including expert opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17.

(c) The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer.

(d) The medical adviser shall consider the reports of the physicians, psychologists, and chiropractors and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within ~~180 days~~ 18 months of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section.

(e) A terminated employee may apply for a disability benefit within ~~180 days~~ 18 months of termination as long as the disability occurred while in the employment of the state. The fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit.

(f) Unless the payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this section, the disability benefit must cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving. In that event, the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit

applicants whose last day of public employment was after June 30, 2009.

Sec. 10. Minnesota Statutes 2008, section 352.95, subdivision 1, is amended to read:

Subdivision 1. ~~Job-related disability~~ **Duty disability; computation of benefit.** A covered correctional employee who ~~becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arose out of any act of duty that makes the employee physically or mentally unable to perform the duties~~ is determined to have a duty disability, physical or psychological, as defined under section 352.01, subdivision 17b, is entitled to a duty disability benefit. The duty disability benefit may must be based on covered correctional service only. The duty disability benefit amount is 50 percent of the average salary defined in section 352.93, plus an additional percent equal to that specified in section 356.315, subdivision 5, for each year of covered correctional service in excess of 20 years, ten months, prorated for completed months.

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

Sec. 11. Minnesota Statutes 2008, section 352.95, subdivision 2, is amended to read:

Subd. 2. ~~Non-job-related~~ **Regular disability; computation of benefit.** A covered correctional employee who was hired before July 1, 2009, after rendering at least one year of covered correctional service, or a covered correctional employee who was first hired after June 30, 2009, after rendering at least three years of covered correctional plan service, becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury that occurred while not engaged in covered employment and who is determined to have a regular disability, physical or psychological, as defined under section 352.01, subdivision 17c, is entitled to a regular disability benefit. The regular disability benefit must be based on covered correctional service only. The regular disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and. The regular disability benefit of a covered correctional employee who was first hired before July 1, 2009, and who is determined to have a regular disability, physical or psychological, under this subdivision must be computed as though the employee had at least 15 years of covered correctional service.

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

Sec. 12. Minnesota Statutes 2008, section 352.95, subdivision 3, is amended to read:

Subd. 3. **Applying for benefits; accrual.** No application for disability benefits ~~shall~~ may be made until after the last day physically on the job. The disability benefit shall begin begins to accrue the day following the last day for which the employee is paid sick leave or annual leave, but not earlier than 180 days before the date the application is filed. A terminated employee must file a written application within the time frame specified under section 352.113, subdivision 4, paragraph (e).

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 13. Minnesota Statutes 2008, section 352.95, subdivision 4, is amended to read:

Subd. 4. **Medical or psychological evidence.** (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for disability benefits. The director

shall have the employee examined by at least one additional licensed physician, chiropractor, or psychologist who is designated by the medical adviser. The physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the director concerning the question of the employee's disability, including their expert opinions as to whether the employee ~~is disabled~~ has an occupational disability within the meaning of this section 352.01, subdivision 17a, and whether the employee has a duty disability, physical or psychological, under section 352.01, subdivision 17b, or has a regular disability, physical or psychological, under section 352.01, subdivision 17c. The director shall also obtain written certification from the employer stating whether or not the employee is on sick leave of absence because of a disability that will prevent further service to the employer performing normal duties as defined in section 352.01, subdivision 17d, or performing less frequent duties as defined in section 352.01, subdivision 17e, and as a consequence, the employee is not entitled to compensation from the employer.

(b) If, on considering the reports by the physicians, chiropractors, or psychologists and any other evidence supplied by the employee or others, the medical adviser finds that the employee disabled has an occupational disability within the meaning of this section 352.01, subdivision 17a, the advisor shall make the appropriate recommendation to the director, in writing, together with the date from which the employee has been disabled. The director shall then determine the propriety of authorizing payment of a duty disability benefit or a regular disability benefit as provided in this section.

(c) Unless the payment of a disability benefit has terminated because the employee ~~is no longer disabled~~ has an occupational disability, or because the employee has reached either age ~~65~~ 55 or the five-year anniversary of the effective date of the disability benefit, whichever is later, the disability benefit must cease with the last payment which was received by the disabled employee or which had accrued during the employee's lifetime. While disability benefits are paid, the director has the right, at reasonable times, to require the disabled employee to submit proof of the continuance of ~~the an occupational disability claimed.~~ the an occupational disability. If any examination indicates to the medical adviser that the ~~employee is no longer disabled~~ employee is no longer disabled has an occupational disability, the disability payment must be discontinued upon the person's reinstatement to state service or within 60 days of the finding, whichever is sooner.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 14. Minnesota Statutes 2008, section 352.95, subdivision 5, is amended to read:

Subd. 5. **Retirement status at normal retirement age.** The disability benefit paid to a disabled correctional employee under this section ~~shall terminate~~ terminates at the end of the month in which the employee reaches age ~~65~~ 55, or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the disabled correctional employee is still disabled when the employee reaches age ~~65~~ 55, or the five-year anniversary of the effective date of the disability benefit, whichever is later, the employee ~~shall~~ must be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may within 90 days of attaining age ~~65~~ 55 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.93 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the

disability benefit. Election of an optional annuity must be made within 90 days before attaining age 65 55 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is elected, the optional annuity ~~shall begin~~ begins to accrue on the first of the month following the month in which the employee reaches age 65 55 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 15. **[352B.011] DEFINITIONS.**

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

Subd. 2. Accumulated deductions. "Accumulated deductions" means the total sums deducted from the salary of a member and the total amount of assessments paid by a member in place of deductions and credited to the member's individual account as permitted by law without interest.

Subd. 3. Allowable service. (a) "Allowable service" means:

(1) service in a month during which a member is paid a salary from which a member contribution is deducted, deposited, and credited in the State Patrol retirement fund;

(2) for members defined in subdivision 10, clause (1), service in any month for which payments have been made to the State Patrol retirement fund under law; and

(3) for members defined in subdivision 10, clauses (2) and (3), service for which payments have been made to the State Patrol retirement fund under law, service for which payments were made to the State Police officers retirement fund under law after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961.

(b) Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or until the date of a return to employment.

Subd. 4. Average monthly salary. (a) Subject to the limitations of section 356.611, "average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years.

(b) The salary used for the calculation of "average monthly salary" means the salary of the member as defined in section 352.01, subdivision 13. The salary used for the calculation of "average monthly salary" does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service, any amounts of severance pay, or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

Subd. 5. Department head. "Department head" means the head of any department, institution,

or branch of the state service that directly pays salaries from state funds to a member who prepares, approves, and submits salary abstracts of employees to the commissioner of Minnesota Management and Budget.

Subd. 6. **Dependent child.** "Dependent child" means a natural or adopted unmarried child of a deceased member under the age of 18 years, including any child of the member conceived during the lifetime of the member and born after the death of the member.

Subd. 7. **Duty disability.** "Duty disability" means a physical or psychological condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by the person as a member of the State Patrol retirement fund, and that is the direct result of any injury incurred during, or a disease arising out of, the performance of normal duties or the actual performance of less frequent duties, either of which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the State Patrol retirement fund.

Subd. 8 **Fund.** "Fund" means the State Patrol retirement fund.

Subd. 9. **Less frequent duties.** "Less frequent duties" means tasks which are designated in the member's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the member's position.

Subd. 10. **Member.** "Member" means:

(1) a State Patrol member currently employed under section 299D.03 by the state, who is a peace officer under section 626.84, and whose salary or compensation is paid out of state funds;

(2) a conservation officer employed under section 97A.201, currently employed by the state, whose salary or compensation is paid out of state funds;

(3) a crime bureau officer who was employed by the crime bureau and was a member of the Highway Patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant under section 299C.04, and who is currently employed by the state, and whose salary or compensation is paid out of state funds;

(4) a person who is employed by the state in the Department of Public Safety in a data processing management position with salary or compensation paid from state funds, who was a crime bureau officer covered by the State Patrol retirement plan on August 15, 1987, and who was initially hired in the data processing management position within the department during September 1987, or January 1988, with membership continuing for the duration of the person's employment in that position, whether or not the person has the power of arrest by warrant after August 15, 1987;

(5) a public safety employee who is a peace officer under section 626.84, subdivision 1, paragraph (c), and who is employed by the Division of Alcohol and Gambling Enforcement under section 299L.01;

(6) a Fugitive Apprehension Unit officer after October 31, 2000, who is employed by the Office of Special Investigations of the Department of Corrections and who is a peace officer under section 626.84;

(7) an employee of the Department of Commerce defined as a peace officer in section 626.84, subdivision 1, paragraph (c), who is employed by the Division of Insurance Fraud Prevention under section 45.0135 after January 1, 2005, and who has not attained the mandatory retirement age specified in section 43A.34, subdivision 4; and

(8) an employee of the Department of Public Safety, who is a licensed peace officer under section 626.84, subdivision 1, paragraph (c), and is employed as the statewide coordinator of the Gang and Drug Oversight Council.

Subd. 11. **Normal duties.** "Normal duties" means specific tasks which are designated in the member's job description and which the applicant performs on a day-to-day basis, but do not include less frequent duties which may be requested to be done by the employer from time to time.

Subd. 12. **Regular disability.** "Regular disability" means a physical or psychological condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by a person who is a member of the State Patrol retirement plan, and which results from a disease or an injury that arises from any activities while not at work, or while at work and performing those normal or less frequent duties that do not present inherent dangers that are specific to the occupations covered by the State Patrol retirement plan.

Subd. 13. **Surviving spouse.** "Surviving spouse" means a member's or former member's legally married spouse who resided with the member or former member at the time of death and was married to the member or former member, for a period of at least one year, during or before the time of membership.

EFFECTIVE DATE. (a) Except as provided in paragraph (b), this section is effective July 1, 2009.

(b) Subdivision 3, paragraph (a), clause (1), is effective retroactively from July 1, 1969, and allowable service on the records of the State Patrol retirement plan credit consistent with that provision is validated.

Sec. 16. Minnesota Statutes 2008, section 352B.02, subdivision 1, is amended to read:

Subdivision 1. **Fund created; membership.** A State Patrol retirement fund is established. Its membership consists of all persons defined in section 352B.01, ~~subdivision 2~~ 352B.011, subdivision 10.

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

Sec. 17. **[352B.085] SERVICE CREDIT FOR CERTAIN DISABILITY LEAVES OF ABSENCE.**

A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence under section 352B.011, subdivision 3, paragraph (b), may make payment to the fund for the difference between salary received, if any, and the salary that the member would normally receive if the member was not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made

under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the member's return from the leave of absence.

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

Sec. 18. [352B.086] SERVICE CREDIT FOR UNIFORMED SERVICE.

(a) A member who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment in a position covered by the plan upon discharge from service in the uniformed services within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the member contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to state employment covered by the plan and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

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

Sec. 19. Minnesota Statutes 2008, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. ~~Injuries; payment amounts~~ **Duty disability.** A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arose out of any act of duty is determined to qualify for duty disability as defined in section 352B.011, subdivision 7, is entitled to receive a duty disability benefits benefit while disabled. The benefits must be paid in monthly installments. The duty disability benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

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

Sec. 20. Minnesota Statutes 2008, section 352B.10, subdivision 2, is amended to read:

Subd. 2. ~~Disabled while not on duty~~ **Regular disability benefit.** If A member with at least one year of service becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury that occurred while not engaged in covered employment, the individual who qualifies for a regular disability benefit as defined in section 352B.011, subdivision 12, is entitled to a regular disability benefits benefit. The regular disability benefit must be computed as if the individual were 55 years old at the date of disability and as if the annuity was payable under section 352B.08. If a regular disability under this subdivision occurs after one year of service but before 15 years of service, the regular disability benefit must be computed as though the individual had credit for 15 years of service.

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

Sec. 21. Minnesota Statutes 2008, section 352B.10, is amended by adding a subdivision to read:

Subd. 2a. **Applying for benefits; accrual.** No application for disability benefits shall be made until after the last day physically on the job. The disability benefit begins to accrue the day following the last day for which the employee is paid sick leave or annual leave but not earlier than 180 days before the date the application is filed. A member who is terminated must file a written application within the time frame specified under section 352.113, subdivision 4, paragraph (e).

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 22. Minnesota Statutes 2008, section 352B.10, subdivision 5, is amended to read:

Subd. 5. **Optional annuity.** A disablitant may elect, in lieu of spousal survivorship coverage under section 352B.11, subdivisions 2b and 2c, the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days before reaching age ~~65~~ 55 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age ~~65~~ 55 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 23. Minnesota Statutes 2008, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **Death; payment to dependent children; family maximums.** (a) Each dependent child, as defined in section ~~352B.01, subdivision 10~~ 352B.011, subdivision 6, is entitled to receive a monthly annuity equal to ten percent of the average monthly salary of the deceased member.

(b) A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity must cease at the end of the month of separation.

(c) In addition, a payment of \$20 per month must be prorated equally to the surviving dependent children when the former member is survived by more than one dependent child.

(d) Payments for the benefit of any dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child.

(e) The monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary of the deceased member.

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

Sec. 24. **REPEALER.**

Minnesota Statutes 2008, section 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, and 11, are repealed.

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

ARTICLE 3

STATE CORRECTIONAL RETIREMENT PLAN

MEMBERSHIP CHANGES

Section 1. Minnesota Statutes 2008, section 352.91, subdivision 3d, is amended to read:

Subd. 3d. **Other correctional personnel.** (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota Security Hospital specified in paragraph (b) if at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner.

(b) The employment positions are:

(1) automotive mechanic;

(2) baker;

~~(2)~~ (3) central services administrative specialist, intermediate;

~~(3)~~ (4) central services administrative specialist, principal;

- ~~(4)~~ (5) chaplain;
- ~~(5)~~ (6) chief cook;
- ~~(6)~~ (7) cook;
- ~~(7)~~ (8) cook coordinator;
- ~~(8)~~ (9) corrections program therapist 1;
- ~~(9)~~ (10) corrections program therapist 2;
- ~~(10)~~ (11) corrections program therapist 3;
- ~~(11)~~ (12) corrections program therapist 4;
- ~~(12)~~ (13) corrections inmate program coordinator;
- ~~(13)~~ (14) corrections transitions program coordinator;
- ~~(14)~~ (15) corrections security caseworker;
- ~~(15)~~ (16) corrections security caseworker career;
- ~~(16)~~ (17) corrections teaching assistant;
- ~~(17)~~ (18) delivery van driver;
- ~~(18)~~ (19) dentist;
- ~~(19)~~ (20) electrician supervisor;
- ~~(20)~~ (21) general maintenance worker lead;
- ~~(21)~~ (22) general repair worker;
- ~~(22)~~ (23) library/information research services specialist;
- ~~(23)~~ (24) library/information research services specialist senior;
- ~~(24)~~ (25) library technician;
- ~~(25)~~ (26) painter lead;
- ~~(26)~~ (27) plant maintenance engineer lead;
- ~~(27)~~ (28) plumber supervisor;
- ~~(28)~~ (29) psychologist 1;
- ~~(29)~~ (30) psychologist 3;
- ~~(30)~~ (31) recreation therapist;
- ~~(31)~~ (32) recreation therapist coordinator;
- ~~(32)~~ (33) recreation program assistant;

- ~~(33)~~ (34) recreation therapist senior;
- ~~(34)~~ (35) sports medicine specialist;
- ~~(35)~~ (36) work therapy assistant;
- ~~(36)~~ (37) work therapy program coordinator; and
- ~~(37)~~ (38) work therapy technician.

EFFECTIVE DATE. This section is effective retroactively from May 29, 2007.

Sec. 2. MSRS-CORRECTIONAL; ELIMINATION OF CERTAIN POSITION FROM COVERAGE.

Notwithstanding any provision of Minnesota Statutes, section 352.91, to the contrary, including Minnesota Statutes, section 352.91, subdivision 2, "covered correctional service" does not mean service rendered by a state employee as an automotive mechanic lead.

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

ARTICLE 4

ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 2008, section 43A.346, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) This section applies to a terminated state employee who:

(1) for at least the five years immediately preceding separation under clause (2), was regularly scheduled to work 1,044 or more hours per year in a position covered by a pension plan administered by the Minnesota State Retirement System or the Public Employees Retirement Association;

(2) terminated state or Metropolitan Council employment;

(3) at the time of termination under clause (2), met the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfied requirements for the commencement of the retirement annuity or, for a terminated employee under the unclassified employees retirement plan, met the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfied requirements for the commencement of the retirement annuity or elected a lump-sum payment; and

(4) agrees to accept a postretirement option position with the same or a different appointing authority, working a reduced schedule that is both (i) a reduction of at least 25 percent from the employee's number of previously regularly scheduled work hours; and (ii) 1,044 hours or less in state or Metropolitan Council service.

(b) For purposes of this section, an unreduced retirement annuity includes a retirement annuity computed under a provision of law which permits retirement, without application of an earlier retirement reduction factor, whenever age plus years of allowable service total at least 90.

(c) For purposes of this section, as it applies to staff state employees who are members of the Public Employees Retirement Association who are at least age 62, the length of separation requirement and termination of service requirement prohibiting return to work agreements under

section 353.01, subdivisions 11a and 28, are not applicable.

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

Sec. 2. Minnesota Statutes 2008, section 43A.346, subdivision 6, is amended to read:

Subd. 6. **Duration.** Postretirement option employment ~~shall be~~ is for an initial period not to exceed one year. During that period, the appointing authority may not modify the conditions specified in the written offer without the person's consent, except as required by law or by the collective bargaining agreement or compensation plan applicable to the person. At the end of the initial period, the appointing authority has sole discretion to determine if the offer of a postretirement option position will be renewed, renewed with modifications, or terminated. ~~If the person is under age 62, an offer of renewal and any related verbal offer or agreement must not be made until at least 30 days after termination of the person's previous postretirement option employment.~~ Postretirement option employment may be renewed for periods of up to one year, not to exceed a total duration of five years. No person ~~shall~~ may be employed in one or a combination of postretirement option positions under this section for a total of more than five years.

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

Sec. 3. Minnesota Statutes 2008, section 352B.02, subdivision 1a, is amended to read:

Subd. 1a. **Member contributions.** (a) ~~Each~~ The member shall pay a sum equal to the following contribution is 10.40 percent of the member's salary, which constitutes the member contribution to the fund:

before July 1, 2007	8.40
from July 1, 2007, to June 30, 2008	9.10
from July 1, 2008, to June 30, 2009	9.80
from July 1, 2009, and thereafter	10.40.

(b) These contributions must be made by deduction from salary as provided in section 352.04, subdivision 4.

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

Sec. 4. Minnesota Statutes 2008, section 352B.02, subdivision 1c, is amended to read:

Subd. 1c. **Employer contributions.** (a) In addition to member contributions, department heads shall pay a sum equal to ~~the following~~ 15.60 percent of the salary upon which deductions were made, which ~~shall constitute~~ constitutes the employer contribution to the fund:

before July 1, 2007	12.60
from July 1, 2007, to June 30, 2008	13.60
from July 1, 2008, to June 30, 2009	14.60
from July 1, 2009, and thereafter	15.60.

(b) Department contributions must be paid out of money appropriated to departments for this purpose.

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

Sec. 5. Minnesota Statutes 2008, section 353.01, subdivision 16, is amended to read:

Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee deductions were withheld from salary and contributions were made, at the applicable rates under section 353.27, 353.65, or 353E.03;

(2) periods of service covered by payments in lieu of salary deductions under ~~section~~ sections 353.27, subdivision 12, and 353.35;

~~(2)~~ (3) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

~~(3)~~ (4) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

~~(4)~~ (5) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and for which a member obtained service credit for each month in the leave period by payment under section 353.0161 to the fund made in place of salary deductions. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to make payment under section 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

~~(5)~~ (6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within ~~20~~ 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

~~(6)~~ (7) an authorized temporary or seasonal layoff under subdivision 12, limited to three months allowable service per authorized temporary or seasonal layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary or seasonal layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary

or seasonal layoff; or

~~(7)~~ (8) a period during which a member is absent from employment by a governmental subdivision by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service with the same governmental subdivision upon discharge from service in the uniformed service within the time frames required under United States Code, title 38, section 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service is credited if the member pays into the fund equivalent employee contributions based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made during a period that begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following ~~20~~ 30 days after termination of public service under subdivision 11a. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The equivalent employer contribution, and, if applicable, the equivalent additional employer contribution must be paid by the governmental subdivision employing the member if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period; or

(9) a period specified under subdivision 40.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief

association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(e) MS 2002 [Expired]

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

Sec. 6. Minnesota Statutes 2008, section 353.01, subdivision 16b, is amended to read:

Subd. 16b. **Uncredited military service credit purchase.** (a) A public employee who has at least three years of allowable service with the Public Employees Retirement Association or the public employees police and fire plan and who performed service in the United States armed forces before becoming a public employee, or who failed to obtain service credit for a military leave of absence under subdivision 16, paragraph ~~(h)~~ (a), clause 7, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551. This authority is voided if the public employee has ~~not~~ purchased service credit from any other Minnesota defined benefit public employee pension plan, other than a volunteer fire plan, for the same period of service, or if the separation from the United States armed forces was under less than honorable conditions.

(b) A public employee who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the public employee's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the Public Employees Retirement Association or the public employees police and fire plan, whichever applies, to the purchasing public employee upon receipt of the purchase payment amount. Payment must be made before the ~~effective date of retirement of the public employee~~ employee's termination of public service or termination of membership, whichever is earlier.

(d) This subdivision is repealed July 1, 2013.

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

Sec. 7. Minnesota Statutes 2008, section 353.0161, subdivision 1, is amended to read:

Subdivision 1. **Application.** This section applies to employees covered by any plan specified in this chapter or chapter 353E for any period of authorized leave of absence specified in section 353.01, subdivision 16, paragraph (a), clause ~~(4)~~ (5), for which the employee obtains credit for allowable service by making payment as specified in this section to the applicable fund.

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

Sec. 8. Minnesota Statutes 2008, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. **Executive director.** (a) **Appointment.** The board shall appoint an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director must 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 may serve in the unclassified service and whose salaries are 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~~ . In addition to filing requirements 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; and notwithstanding section 353.27, subdivision 7, may authorize that accrued interest of \$10 or less is not payable to the member when a credit has been taken by the employer to correct an employee deduction taken in error. 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.

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

Sec. 9. Minnesota Statutes 2008, section 353.27, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) For a basic member, the employee contribution is the following applicable percentage of the total 9.10 percent of salary amount for a "basic member" and. For a "coordinated member": coordinated member, the employee contribution is six percent of salary plus any contribution rate adjustment under subdivision 3b.

	Basic Program	Coordinated Program
Effective before January 1, 2006	9.10	5.10
Effective January 1, 2006	9.10	5.50
Effective January 1, 2007	9.10	5.75
Effective January 1, 2008	9.10	6.00 plus any contribution rate adjustment under subdivision 3b

(b) These contributions must be made by deduction from salary as defined in section 353.01, subdivision 10, in the manner provided in subdivision 4. If any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the total salary

received by the member from all sources.

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

Sec. 10. Minnesota Statutes 2008, section 353.27, subdivision 3, is amended to read:

Subd. 3. **Employer contribution.** (a) For a basic member, the employer contribution is the following applicable percentage of the total 9.10 percent of salary amount for "basic members" and. For "coordinated members": a coordinated member, the employer contribution is six percent of salary plus any contribution rate adjustment under subdivision 3b.

	Basic Program	Coordinated Program
Effective before January 1, 2006	9.10	5.10
Effective January 1, 2006	9.10	5.50
Effective January 1, 2007	9.10	5.75
Effective January 1, 2008	9.10	6.00 plus any contribution rate adjustment under subdivision 3b

(b) This contribution must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

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

Sec. 11. Minnesota Statutes 2008, section 353.27, subdivision 7, is amended to read:

Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except as provided in paragraph (b), erroneous employee deductions and erroneous employer contributions and additional employer contributions for a person, who otherwise does not qualify for membership under this chapter, are considered:

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may continue membership in the association while employed in the same position for which erroneous deductions were taken, or file a written election to terminate membership and apply for a refund upon termination of public service or defer an annuity under section 353.34; or

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall refund all erroneous employee deductions and all erroneous employer contributions as specified in paragraph ~~(d)~~ (e). No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990.

(b) Erroneous deductions taken from the salary of a person who did not qualify for membership in the association by virtue of concurrent employment before July 1, 1978, which required contributions to another retirement fund or relief association established for the benefit of officers and employees of a governmental subdivision, are invalid. Upon discovery of the error, the association shall remove all invalid service and, upon termination of public service, the association shall refund all erroneous employee deductions to the person, with interest as determined under

section 353.34, subdivision 2, and all erroneous employer contributions without interest to the employer. This paragraph has both retroactive and prospective application.

(c) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 353.01, subdivision 10, are invalid upon discovery by the association and must be refunded made as specified in paragraph (d) (e). The period of adjustment must be limited to the fiscal year in which the error is discovered by the association and the immediate two preceding fiscal years.

(d) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than provided for under paragraph (c).

~~(d)~~ (e) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), clause (2), or paragraph (c), the association must require the employer to discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of a member. Upon discontinuation, the association either must refund:

(1) for a member, provide a refund or credit to the employer in the amount of the invalid employee deductions to the person without interest and with interest on the invalid employee deductions at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; and the employer must pay the refunded employee deductions plus interest to the member;

(2) for a former member who:

(i) is not receiving a retirement annuity or benefit, return the erroneous employee deductions to the former member through a refund with interest at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; or

(ii) is receiving a retirement annuity or disability benefit, or a person who is receiving an optional annuity or survivor benefit, for whom it has been determined an overpayment must be recovered, adjust the payment amount and recover the overpayments as provided under this section; and

(3) return the invalid employer contributions reported on behalf of a member or former member to the employer or provide by providing a credit against future contributions payable by the employer for the amount of all erroneous deductions and contributions. If the employing unit receives a credit under this paragraph, the employing unit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary. In the event that a retirement annuity or disability benefit has been computed using invalid service or salary, the association must adjust the annuity or benefit and recover any overpayment under subdivision 7b.

~~(e)~~ (f) In the event that a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or any portion of it that is required to adjust the deductions, must be made to the department or institution.

~~(f) Any refund to a member under this subdivision that is reasonably determined to cause the plan to fail to be a qualified plan under section 401(a) of the federal Internal Revenue Code, as~~

~~amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer receiving the credit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary.~~

(g) If the accrual date of any retirement annuity, survivor benefit, or disability benefit is within the limitation period specified in paragraph (c), and an overpayment has resulted by using invalid service or salary, or due to any erroneous calculation procedure, the association must recalculate the annuity or benefit payable and recover any overpayment as provided under subdivision 7b.

(h) Notwithstanding the provisions of this subdivision, the association may apply the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the member refund or overpayment.

(i) Any fees or penalties assessed by the federal Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

EFFECTIVE DATE. (a) This section is effective the day following enactment.

(b) The interest required on deductions in error as provided in paragraph (e) must be applied to any refunds paid on or after June 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 353.27, subdivision 7b, is amended to read:

Subd. 7b. **Recovery of overpayments to members.** (a) In the event of an overpayment to a member, retiree, beneficiary, or other person, the executive director shall recover the overpayment by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity payable to the applicable person or the person's estate, whichever applies, under this chapter until all outstanding money has been recovered determines that an overpaid annuity or benefit that is the result of invalid salary included in the average salary used to calculate the payment amount must be recovered, the association must determine the amount of the employee deductions taken in error on the invalid salary, with interest determined in the manner provided for a former member under subdivision 7, paragraph (e), clause (2), item (i), and must subtract that amount from the total annuity or benefit overpayment, and the remaining balance of the overpaid annuity or benefit, if any, must be recovered.

(b) If the invalid employee deductions plus interest exceed the amount of the overpaid benefits, the balance must be refunded to the person to whom the benefit or annuity is being paid.

(c) Any invalid employer contributions reported on the invalid salary must be credited to the employer as provided in subdivision 7, paragraph (e).

(d) If a member or former member, who is receiving a retirement annuity or disability benefit for which an overpayment is being recovered, dies before recovery of the overpayment is completed and a joint and survivor optional annuity is payable, the remaining balance of the overpaid annuity or benefit must continue to be recovered from the payment to the optional annuity beneficiary.

(e) If the association finds that a refund has been overpaid to a former member, beneficiary or other person, the amount of the overpayment must be recovered.

(f) The board of trustees shall adopt policies directing the period of time and manner for the collection of any overpaid retirement or optional annuity, and survivor or disability benefit, or a refund that the executive director determines must be recovered as provided under this section.

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

Sec. 13. Minnesota Statutes 2008, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **Age, service, and salary requirements.** A coordinated or basic member who has at least three years of allowable service and becomes totally and permanently disabled before normal retirement age, ~~and a basic member who has at least three years of allowable service and who becomes totally and permanently disabled,~~ upon application as defined under section 353.031, is entitled to a disability benefit in an amount determined under subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming an active member.

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

Sec. 14. Minnesota Statutes 2008, section 353.33, is amended by adding a subdivision to read:

Subd. 1a. **Benefit restriction.** No person is entitled to receive disability benefits and a retirement annuity at the same time.

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

Sec. 15. Minnesota Statutes 2008, section 353.33, subdivision 11, is amended to read:

Subd. 11. **Coordinated member disabilitant transfer to retirement status.** ~~No person is entitled to receive disability benefits and a retirement annuity at the same time.~~ The disability benefits paid to a coordinated member must terminate when the person reaches normal retirement age. If the coordinated member is still totally and permanently disabled upon attaining normal retirement age, the coordinated member is deemed to be on retirement status. If an optional annuity is elected under subdivision 3a, the coordinated member shall receive an annuity under the terms of the optional annuity previously elected, or, if an optional annuity is not elected under subdivision 3a, the coordinated member may elect to receive a normal retirement annuity under section 353.29 or an annuity equal to the disability benefit paid before the coordinated member reaches normal retirement age, whichever amount is greater, or elect to receive an optional annuity under section 353.30, subdivision 3. The annuity of a disabled coordinated member who attains normal retirement age must be computed under the law in effect upon attainment of normal retirement age. Election of an optional annuity must be made before the coordinated member attains normal retirement age. If an optional annuity is elected, the election is effective on the date on which the person attains normal retirement age and the optional annuity begins to accrue on the first day of the month next following the month in which the person attains that age.

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

Sec. 16. Minnesota Statutes 2008, section 353.33, subdivision 12, is amended to read:

Subd. 12. **Basic ~~disability~~ disabilitant transfer to retirement status; survivor benefits.** (a) If a basic member who is receiving a disability benefit under subdivision 3:

(4) dies before attaining age 65 or within five years of the effective date of the disability,

whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.31, ~~unless and any dependent child or children are entitled to dependent child benefits under section 353.31, subdivision 1b, paragraph (b).~~ If there are no dependent children, in lieu of the survivor benefit specified under section 353.31, the surviving spouse ~~elected~~ may elect to receive a refund under section 353.32, subdivision 1~~;~~.

~~(2)~~ (b) If a basic member who is receiving a disability benefit under subdivision 3 is living at age 65 or five years after the effective date of the disability, whichever is later, the basic member may ~~continue to receive a normal retirement annuity equal to the disability benefit previously received, adjusted for the amount no longer payable under subdivision 3, paragraph (b), or the person may elect a joint and survivor optional annuity under section 353.31, subdivision 1b.~~ The election of the joint and survivor optional annuity must occur within 90 days of attaining age 65 or of reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect on the first day of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later; ~~or.~~

~~(3) if there is a dependent child or children under clause (1) or (2), the dependent child is entitled to a dependent child benefit under section 353.31, subdivision 1b, paragraph (b).~~

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

Sec. 17. Minnesota Statutes 2008, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution rate.** ~~(a) The employee contribution is an amount equal to the 9.4 percent of the total salary of the member specified in paragraph (b).~~ This contribution must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

~~(b) For calendar year 2006, the employee contribution rate is 7.0 percent. For calendar year 2007, the employee contribution rate is 7.8 percent. For calendar year 2008, the employee contribution rate is 8.6 percent. For calendar year 2009 and thereafter, the employee contribution rate is 9.4 percent.~~

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

Sec. 18. Minnesota Statutes 2008, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution rate.** ~~(a) The employer contribution shall be an amount equal to the~~ is 14.1 percent of the total salary of every the member ~~as specified in paragraph (b).~~ This contribution ~~shall~~ must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

~~(b) For calendar year 2006, the employer contribution rate is 10.5 percent. For calendar year 2007, the employer contribution rate is 11.7 percent. For calendar year 2008, the employer contribution rate is 12.9 percent. For calendar year 2009 and thereafter, the employer contribution rate is 14.1 percent.~~

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

Sec. 19. Minnesota Statutes 2008, section 353A.08, subdivision 6a, is amended to read:

Subd. 6a. **Military service contribution and refund.** A person who was an active member of a local police or firefighters relief association upon its consolidation with the public employees retirement association, and who was otherwise eligible for automatic service credit for military service under Minnesota Statutes 2000, section 423.57, and who has not elected the type of benefit coverage provided by the public employees police and fire fund at the time of consolidation, must make employee contributions under section 353.01, subdivision 16, paragraph ~~(h)~~ (a), clause (8), to receive allowable service credit from the association for a military service leave after the effective date of the consolidation. A person who later elects, under subdivision 3, to retain benefit coverage under the bylaws of the local relief association is eligible for a refund from the association at the time of retirement. The association shall refund the employee contributions plus interest at the rate of six percent, compounded quarterly, from the date on which contributions were made until the first day of the month in which the refund is paid. The employer shall receive a refund of the employer contributions. The association shall not pay a refund to a person who later elects, under subdivision 3, the type of benefit coverage provided by the public employees police and fire fund or to the person's employer.

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

Sec. 20. Minnesota Statutes 2008, section 353F.02, subdivision 4, is amended to read:

Subd. 4. **Medical facility.** "Medical facility" means:

- (1) Bridges Medical Services;
- (2) the City of Cannon Falls Hospital;
- (3) Clearwater County Memorial Hospital doing business as Clearwater Health Services in Bagley;
- (4) the Dassel Lakeside Community Home;
- (5) the Fair Oaks Lodge, Wadena;
- (6) the Glencoe Area Health Center;
- (7) Hutchinson Area Health Care;
- (8) the Lakefield Nursing Home;
- (9) the Lakeview Nursing Home in Gaylord;
- (10) the Luverne Public Hospital;
- (11) the Oakland Park Nursing Home;
- (12) the RenVilla Nursing Home;
- (13) the Rice Memorial Hospital in Willmar, with respect to the Department of Radiology and the Department of Radiation/Oncology;
- (14) the St. Peter Community Health Care Center;
- (15) the Waconia-Ridgeview Medical Center; and

(16) the Weiner Memorial Medical Center, Inc.; and

(17) the Worthington Regional Hospital.

EFFECTIVE DATE. This section is effective upon compliance with Minnesota Statutes, section 353F.02, subdivision 3.

Sec. 21. Minnesota Statutes 2008, section 354.05, is amended by adding a subdivision to read:

Subd. 42. **Fiscal year.** The fiscal year of the association begins on July 1 of each calendar year and ends on June 30 of the following calendar year.

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

Sec. 22. Minnesota Statutes 2008, section 354.42, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) ~~For a basic member, the employee contribution to the fund is an amount equal to the following percentage 9.0 percent of the member's salary of a member.~~ For a coordinated member, the employee contribution is 5.5 percent of the member's salary.

~~(1) after July 1, 2006, for a teacher employed by Special School District No. 1, Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the teacher is a basic member;~~

~~(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a coordinated member and 9.0 percent if the teacher is a basic member.~~

(b) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

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

Sec. 23. Minnesota Statutes 2008, section 354.44, subdivision 4, is amended to read:

Subd. 4. **Retirement annuity accrual date.** (a) An annuity payment begins to accrue, provided that the age and service requirements under subdivision 1 are satisfied, after the termination of teaching service, or after the application for retirement has been filed with the ~~board, whichever is later~~ executive director, as follows:

~~(1) on the 16th day of after the month of termination or filing if the termination or filing occurs on or before the 15th day of the month of teaching service;~~

~~(2) on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the 16th day of the month day of receipt of application if the application is filed with the executive director after the six-month period that occurs immediately following the termination of teaching service;~~

(3) on July 1 for all school principals and other administrators who receive a full annual contract salary during the fiscal year for performance of a full year's contract duties; or

~~(4) a later date to be either the first or the 16th day of a month occurring within the six-month period immediately following the termination of teaching service as specified under paragraph (b) by the member.~~

~~(b)~~ (4) if an application for retirement is filed with the ~~board~~ executive director during the six-month period that occurs immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated ~~or a later date under paragraph (a), clause (4).~~

(b) A member, or a person authorized to act on behalf of the member, may specify a different date of retirement from that determined in paragraph (a), as follows:

(1) if the application is filed on or before the date of termination of teaching service, the accrual date may be a date no earlier than the day after the termination of teaching service and no later than six months after the termination date; or

(2) if the application is filed during the six-month period that occurs immediately following the termination of teaching service, the accrual date may begin to accrue retroactively, but no earlier than the day after teaching service terminated and no later than six months after the termination date.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 24. Minnesota Statutes 2008, section 354.44, subdivision 5, is amended to read:

Subd. 5. **Resumption of teaching service after retirement.** (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that all or a portion of the annuity payments must be deferred during the calendar year immediately following ~~any calendar~~ the fiscal year in which the person's salary from the teaching service is in an amount greater than \$46,000. The amount of the annuity deferral is one-half of the salary amount in excess of \$46,000 and must be deducted from the annuity payable for the calendar year immediately following the ~~calendar~~ fiscal year in which the excess amount was earned.

(b) If the person is retired for only a fractional part of the ~~calendar~~ fiscal year during the initial year of retirement, the maximum reemployment salary exempt from triggering a deferral as specified in this subdivision must be prorated for that ~~calendar~~ fiscal year.

(c) After a person has reached the Social Security normal retirement age, no deferral requirement is applicable regardless of the amount of salary.

(d) The amount of the retirement annuity deferral must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, salary from teaching service includes, but is not limited to:

(1) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(2) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 25. Minnesota Statutes 2008, section 354.47, subdivision 1, is amended to read:

Subdivision 1. **Death before retirement.** (a) If a member dies before retirement and is covered under section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit under section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death of the member. If the designated beneficiary is a minor, interest must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(b) If a member dies before retirement and is covered under section 354.44, subdivision 6, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957, and from July 1, 1957, to the date of death of the member, the member's accumulated deductions plus six percent interest compounded annually.

(c) If the designated beneficiary under paragraph (b) is a minor, any interest credited under that paragraph must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(d) The amount of any refund payable under this subdivision must be reduced by any permanent disability payment under section 354.48 received by the member.

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

Sec. 26. Minnesota Statutes 2008, section 354.48, subdivision 4, is amended to read:

Subd. 4. **Determination by executive director.** (a) The executive director shall have the member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists ~~selected by the medical adviser.~~

(b) These physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the executive director concerning the member's disability, including expert opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14.

(c) The executive director shall also obtain written certification from the last employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer.

(d) If, upon the consideration of the reports of the physicians, chiropractors, or psychologists and any other evidence presented by the member or by others interested therein, the executive director finds that the member is totally and permanently disabled, the executive director shall grant the member a disability benefit.

(e) An employee who is placed on leave of absence without compensation because of disability is not barred from receiving a disability benefit.

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

Sec. 27. Minnesota Statutes 2008, section 354.48, subdivision 6, is amended to read:

Subd. 6. **Regular physical examinations.** At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the executive director ~~shall~~ may require the disability ~~beneficiary~~ recipient to undergo an expert examination by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists with respect to a mental impairment, engaged by the executive director. If an examination indicates that the member is no longer permanently and totally disabled or that the member is engaged or is able to engage in a substantial gainful occupation, payments of the disability benefit by the association must be discontinued. The payments must be discontinued as soon as the member is reinstated to the payroll following sick leave, but payment may not be made for more than 60 days after the physicians, the chiropractors, or the psychologists engaged by the executive director find that the person is no longer permanently and totally disabled.

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

Sec. 28. Minnesota Statutes 2008, section 354.49, subdivision 2, is amended to read:

Subd. 2. **Calculation.** (a) Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, ~~shall~~ is entitled to receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of six percent per annum compounded annually. For the purpose of this subdivision, interest ~~shall~~ must be computed on fiscal year end balances to the first day of the month in which the refund is issued.

(b) If the person has received permanent disability payments under section 354.48, the refund amount must be reduced by the amount of those payments.

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

Sec. 29. Minnesota Statutes 2008, section 354.52, subdivision 2a, is amended to read:

Subd. 2a. **Annual Postretirement income reports reporting.** ~~On or before each February 15, a representative authorized by an~~ Each employing unit must report to the executive director the amount of income earned during the previous calendar fiscal year by each retiree for teaching service performed after retirement. This ~~annual report must be~~ shall be done through the payroll reporting system and is based on reemployment income as defined in section 354.44, subdivision 5, and it must be made on a form provided by the executive director. ~~Signing~~ Submitting the report salary data through payroll reporting has the force and effect of an oath as to the correctness of the amount of postretirement reemployment income earned.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 30. Minnesota Statutes 2008, section 354.52, subdivision 4b, is amended to read:

Subd. 4b. **Payroll cycle reporting requirements.** An employing unit shall provide the following data to the association for payroll warrants on an ongoing basis within 14 calendar days after the date of the payroll warrant in a format prescribed by the executive director:

(1) association member number;

- (2) employer-assigned employee number;
- (3) Social Security number;
- (4) amount of each salary deduction;
- (5) amount of salary as defined in section 354.05, subdivision 35, from which each deduction was made;
- (6) reason for payment;
- (7) service credit;
- (8) the beginning and ending dates of the payroll period covered and the date of actual payment;
- (9) fiscal year of salary earnings;
- (10) total remittance amount including employee, employer, and additional employer contributions; ~~and~~
- (11) reemployed annuitant salary under section 354.44, subdivision 5; and
- ~~(11)~~ (12) other information as may be required by the executive director.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 31. [354.543] PRIOR OR UNCREDITED MILITARY SERVICE CREDIT PURCHASE.

Subdivision 1. **Service credit purchase authorized.** (a) If paragraph (b) does not apply, a teacher who has at least three years of allowable service credit with the Teachers Retirement Association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551.

(b) A service credit purchase is prohibited if:

- (1) the teacher separated from service with the United States armed forces with a dishonorable or bad conduct discharge or under other than honorable conditions; or
- (2) the teacher has purchased or otherwise received service credit from any Minnesota defined benefit public employee pension plan, other than a volunteer fire plan, for the same period of service.

Subd. 2. **Application and documentation.** A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. **Service credit grant.** Allowable and formula service credit for the purchase period must be granted by the Teachers Retirement Association to the purchasing teacher upon receipt of

the purchase payment amount. Payment must be made before the teacher's termination of teaching service.

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

Sec. 32. Minnesota Statutes 2008, section 354.55, subdivision 11, is amended to read:

Subd. 11. **Deferred annuity; augmentation.** (a) Any person covered under section 354.44, subdivision 6, who ceases to render teaching service, may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. ~~Eligibility for an annuity under this subdivision is governed pursuant to section 354.44, subdivision 1, or 354.60.~~

(b) The amount of the deferred retirement annuity is determined by section 354.44, subdivision 6, and augmented as provided in this subdivision. ~~The required reserves related to that portion of~~ for the annuity which had accrued when the member ceased to render teaching service must be augmented, as further specified in this subdivision, by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement.

~~(c) There shall be No augmentation is not creditable if this the deferral period is less than three months or if this period commences prior to deferral commenced before July 1, 1971. The rates of interest used for this purpose must be five percent compounded annually commencing July 1, 1971, until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former member attains age 55 and from that date to the effective date of retirement, the rate is five percent compounded annually if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006.~~

(d) For persons who became covered employees before July 1, 2006, with a deferral period commencing after June 30, 1971, the annuity must be augmented using five percent interest compounded annually until January 1, 1981, and three percent interest compounded annually thereafter until January 1 of the year following the year in which the deferred annuitant attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

(e) For persons who become covered employees after June 30, 2006, the interest rate used to augment the deferred annuity is 2.5 percent interest compounded annually.

(f) If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period must be augmented by interest pursuant to as specified in this subdivision. The sum of the augmented required reserves so determined shall be the basis for purchasing is the present value of the deferred annuity. For the purposes of this subdivision, "period of uninterrupted service" means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

(g) If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has allowable service credit with this fund in the Teachers Retirement Association.

(h) If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the

resumption of teaching service must be those applicable to new members.

~~(i)~~ (i) The mortality table and interest assumption used to compute the annuity must be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. ~~A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.~~

~~(e)~~ (j) In no case ~~shall~~ may the annuity payable under this subdivision be less than the amount of annuity payable ~~pursuant to~~ under section 354.44, subdivision 6.

~~(d)~~ (k) The requirements and provisions for retirement before normal retirement age contained in section 354.44, subdivision 6, ~~clause (3) or (5), shall~~ also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

~~(e)~~ (l) The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

~~(f)~~ (m) The augmentation provided by this subdivision ~~shall~~ does not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

~~(g)~~ (n) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former teacher who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board as recommended by an approved actuary and approved by the actuary retained under section 356.214.

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

Sec. 33. Minnesota Statutes 2008, section 354A.096, is amended to read:

354A.096 MEDICAL LEAVE.

Any teacher in the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association who is on an authorized medical leave of absence and subsequently returns to teaching service is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354A.12, subdivisions 1 and ~~2~~ 2a, as applied to the member's average full-time monthly salary rate on the date the leave of absence commenced plus annual interest at the rate of 8.5 percent per year from the end of the fiscal year during which the leave terminates to the end of the month during which payment is made. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid by the end of the fiscal year following the fiscal year in which the leave of absence terminated or before the member retires, whichever is earlier. Payment must be accompanied by a copy of the resolution or action of the employing authority granting the leave and the employing authority, upon granting the leave, must certify the leave to the association in a manner specified by the executive director. A member may not receive more than one year of

allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354A.36 and receive allowable service credit under this section for the same period of time.

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

Sec. 34. Minnesota Statutes 2008, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **Employer regular and additional ~~contribution-rates~~ contributions.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) ~~for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer Social Security taxes;~~

~~(2)~~ for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
St. Paul Teachers Retirement Fund Association	4.50 percent

~~(3)~~ (2) for any basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to 8.00 percent of the salary of the basic member;

~~(4)~~ (3) for a basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to 3.64 percent of the salary of the basic member;

~~(5)~~ (4) for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
St. Paul Teachers Retirement Fund Association	<u>3.84 percent</u>
July 1, 1993—June 30, 1994	0.50 percent
July 1, 1994—June 30, 1995	1.50 percent
July 1, 1997, and thereafter	3.84 percent

(b) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

(c) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

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

Sec. 35. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 6. Adjustment for erroneous receipts. (a) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 354A.011, subdivision 24, must be made as specified in this section.

(b) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), the executive director must require the employer to discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of an active member. Upon discontinuation, the executive director must provide for a refund or credit to the employer in the amount of the invalid employee deductions with interest on the employee deductions at the rate specified in section 354A.37, subdivision 3, from the received date of each invalid salary transaction to the first day of the month in which the credit or refund is made. The employer must pay the refunded employee deductions plus interest to the active member.

(c) If the individual is a former member who is not receiving a retirement annuity or benefit and has not received a refund under section 354A.37, subdivision 3, related to the applicable service, the executive director must return the erroneous employee deductions to the former member through a refund within interest at the rate specified in section 354A.37, subdivision 3, from the received date of each invalid salary transaction to the first day of the month in which the credit or refund is made.

(d) The executive director must return the invalid employer contributions reported on behalf of a member or former member to the employer by providing a credit against future contributions payable by the employer.

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

Sec. 36. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 7. Recovery of benefit overpayments. (a) If the executive director discovers, within the time period specified in subdivision 8 following the payment of a refund or the accrual date of any retirement annuity, survivor benefit, or disability benefit, that benefit overpayment has occurred due to using invalid service or salary, or due to any erroneous calculation procedure, the executive director must recalculate the annuity or benefit payable and recover any overpayment. The executive director shall recover the overpayment by requiring direct repayment or by suspending or reducing the payment of a retirement annuity or other benefit payable under this chapter to the applicable person or the person's estate, whichever applies, until all outstanding amounts have been recovered.

(b) In the event the executive director determines that an overpaid annuity or benefit that is the result of invalid salary included in the average salary used to calculate the payment amount must be recovered, the executive director must determine the amount of the employee deductions taken in error on the invalid salary, with interest as determined under 354A.37, subdivision 3, and must subtract that amount from the total annuity or benefit overpayment, and the remaining balance of the overpaid annuity or benefit, if any, must be recovered.

(c) If the invalid employee deductions plus interest exceed the amount of the overpaid benefits, the balance must be refunded to the person to whom the benefit or annuity is being paid.

(d) Any invalid employer contributions reported on the invalid salary must be credited against future contributions payable by the employer.

(e) If a member or former member, who is receiving a retirement annuity or disability benefit for which an overpayment is being recovered, dies before recovery of the overpayment is completed and an optional annuity or refund is payable, the remaining balance of the overpaid annuity or benefit must continue to be recovered from the payment to the optional annuity beneficiary or refund recipient.

(f) The board of trustees shall adopt policies directing the period of time and manner for the collection of any overpaid retirement or optional annuity, and survivor or disability benefit, or a refund that the executive director determines must be recovered as provided under this section.

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

Sec. 37. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 8. **Additional procedures.** (a) If paragraph (b) does not apply, the period of adjustment under subdivisions 6 and 7 is limited to the fiscal year in which the error is discovered by the executive director and the immediate two preceding fiscal years.

(b) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than specified under paragraph (a).

(c) Notwithstanding other provisions of this section, the executive director may apply the Revenue Procedures defined in the Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the refund or overpayment.

(d) Notwithstanding other provisions of this section, interest of \$10 or less shall not be payable to a member or former member.

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

Sec. 38. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 9. **Employer responsibility for fees, penalties.** Any fees or penalties assessed by the Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

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

Sec. 39. Minnesota Statutes 2008, section 354A.36, subdivision 6, is amended to read:

Subd. 6. **Requirement for regular physical examinations.** At least once each year during the first five years following the granting of a disability benefit to a coordinated member by the board

and at least once in every three year period thereafter, the board ~~shall~~ may require the disability benefit recipient to undergo an expert examination as a condition for continued entitlement of the benefit recipient to receive a disability benefit. If the board requires an examination, the expert examination must be made at the place of residence of the disability benefit recipient or at any other place mutually agreeable to the disability benefit recipient and the board. The expert examination must be made by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged by the board. The physician or physicians, the chiropractor or chiropractors, or the psychologist or psychologists with respect to a mental impairment, conducting the expert examination shall make a written report to the board concerning the disability benefit recipient and the recipient's disability, including a statement of the expert opinion of the physician, chiropractor, or psychologist as to whether or not the member remains permanently and totally disabled within the meaning of section 354A.011, subdivision 14. If the board determines from consideration of the written expert examination report of the physician, of the chiropractor, or of the psychologist, with respect to a mental impairment, that the disability benefit recipient is no longer permanently and totally disabled or if the board determines that the benefit recipient is engaged or is able to engage in a gainful occupation, unless the disability benefit recipient is partially employed under subdivision 7, then further disability benefit payments from the fund must be discontinued. The discontinuation of disability benefits must occur immediately if the disability recipient is reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the expert examination and report of the physician or physicians, chiropractor or chiropractors, or psychologist or psychologists engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14.

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

Sec. 40. Minnesota Statutes 2008, section 356.401, subdivision 2, is amended to read:

Subd. 2. **Automatic deposits.** (a) The chief administrative officer of a covered retirement plan may remit, through an automatic deposit system, annuity, benefit, or refund payments only to a financial institution associated with the National Automated Clearinghouse Association or a comparable successor organization that is trustee for a person who is eligible to receive the annuity, benefit, or refund.

(b) Upon the request of a retiree, disabilitant, survivor, or former member, the chief administrative officer of a covered retirement plan may remit the annuity, benefit, or refund ~~check~~ payment to the applicable financial institution for deposit in the person's individual account or the person's joint account. If an overpayment of benefits is paid after the death of the annuitant or benefit recipient, the chief administrative officer of the pension plan is authorized to issue an administrative subpoena consistent with the requirements of section 13A.02, requiring the applicable financial institution to disclose the names of all joint and co-owners of the account and a description of all deposits to, and withdrawals from, the account which take place on or after the death of the annuitant or benefit recipient. An overpayment to a joint account after the death of the annuitant or benefit recipient must be repaid to the fund of the applicable covered retirement plan by the joint tenant if the overpayment is not repaid to that fund by the financial institution associated with the National Automated Clearinghouse Association or its successor. The governing board of the covered retirement plan may prescribe the conditions under which these payments may be made.

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

Sec. 41. Minnesota Statutes 2008, section 356.465, subdivision 1, is amended to read:

Subdivision 1. **Inclusion as recipient.** ~~Notwithstanding any provision to the contrary of the laws, articles of incorporation, or bylaws governing a covered retirement plan specified in subdivision 3,~~ A retiring member may designate a qualified supplemental needs trust under subdivision 2 as the remainder recipient on an optional retirement annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental needs trust.

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

Sec. 42. Minnesota Statutes 2008, section 356.465, is amended by adding a subdivision to read:

Subd. 4. **Expanded eligibility.** (a) Notwithstanding subdivision 1, for a retirement plan specified in paragraph (b), a designation under subdivision 1 may be made by an active, disabled, deferred, or retiring member.

(b) The applicable plan is the Teachers Retirement Association established under chapter 354.

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

Sec. 43. Minnesota Statutes 2008, section 356.611, subdivision 3, is amended to read:

Subd. 3. **Maximum benefit limitations.** A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the federal Internal Revenue Code, as adjusted by the United States secretary of the treasury under section 415(d) of the Internal Revenue Code for any applicable increases in the cost of living after the member's termination of employment. For purposes of section 415 of the federal Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. ~~The accrued benefit limitation described in section 415(e) of the Internal Revenue Code must cease to be effective for limitation years beginning after December 31, 1999.~~

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

Sec. 44. Minnesota Statutes 2008, section 356.611, subdivision 4, is amended to read:

Subd. 4. **Compensation.** (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year ~~determined as provided by including items described in federal treasury regulation section 1.415-2(d)(10)~~ 1.415(c)-2(b) and excluding items described in federal treasury regulation section 1.415(c)-2(c).

(b) Compensation for any period includes:

- (1) any elective deferral as defined in section 402(g)(3) of the federal Internal Revenue Code;
- (2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the federal Internal Revenue Code; and
- (3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the federal Internal Revenue Code.

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

Sec. 45. Minnesota Statutes 2008, section 356.635, subdivision 6, is amended to read:

Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

- (1) an individual retirement account under section 408(a) of the federal Internal Revenue Code;
- (2) an individual retirement annuity plan under section 408(b) of the federal Internal Revenue Code;
- (3) an annuity plan under section 403(a) of the federal Internal Revenue Code;
- (4) a qualified trust plan under section 401(a) of the federal Internal Revenue Code that accepts the distributee's eligible rollover distribution;
- (5) an annuity contract under section 403(b) of the federal Internal Revenue Code; ~~or~~
- (6) an eligible deferred compensation plan under section 457(b) of the federal Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan; or
- (7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an individual account or annuity treated as an inherited individual retirement account under section 402(c)(11) of the federal Internal Revenue Code.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a) or 403(a) of the federal Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

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

Sec. 46. Minnesota Statutes 2008, section 356.635, subdivision 7, is amended to read:

Subd. 7. **Distributee.** A "distributee" is:

- (1) an employee or a former employee;
- (2) the surviving spouse of an employee or former employee; ~~or~~
- (3) the former spouse of the employee or former employee who is the alternate payee under a qualified domestic relations order as defined in section 414(p) of the federal Internal Revenue Code, or who is a recipient of a court-ordered equitable distribution of marital property, as provided in section 518.58; or
- (4) a nonspousal beneficiary of an employee or former employee who qualifies for a distribution under the plan and is a designated beneficiary as defined in section 401(a)(9)(E) of the federal Internal Revenue Code.

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

Sec. 47. Minnesota Statutes 2008, section 356.96, subdivision 5, is amended to read:

Subd. 5. **Petition for review.** (a) A person who claims a right under subdivision 2 may petition

for a review of that decision by the governing board of the covered pension plan.

(b) A petition under this section must be sent to the chief administrative officer by mail and must be postmarked no later than 60 days after the person received the notice required by subdivision 3. The petition must include the person's statement of the reason or reasons that the person believes the decision of the chief administrative officer should be reversed or modified. The petition may include all documentation and written materials that the petitioner deems to be relevant. In developing a record for review by the board when a decision is appealed, the executive director may direct that the applicant participate in a fact-finding session conducted by an administrative law judge assigned by the Office of Administrative Hearings and, as applicable, participate in a vocational assessment conducted by a qualified rehabilitation counselor on contract with the applicable retirement system.

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

Sec. 48. Laws 2006, chapter 271, article 5, section 5, as amended by Laws 2008, chapter 349, article 5, section 36, is amended to read:

Sec. 5. **EFFECTIVE DATE.**

(a) Sections 1, 3, and 4 are effective the day following final enactment and section 3 has effect retroactively from July 25, 2005.

(b) Section 2 with respect to the Cannon Falls Hospital District is effective upon the latter of:

(1) the day after the governing body of the Cannon Falls Hospital District and its chief clerical officer meet the requirements under Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month following certification to the Cannon Falls Hospital District by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized City of Cannon Falls Hospital employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained under Minnesota Statutes, section 356.214. The cost of the actuarial calculations must be borne by the current employer or by the entity which is the employer following the privatization.

(c) Section 2, with respect to Clearwater County Memorial Hospital, is effective upon the latter of:

(1) the day after the governing body of Clearwater County and its chief clerical officer meet the requirements under Minnesota Statutes, section 645.021, subdivisions 2 and 3, except that the certificate of approval must be filed before January 1, ~~2009~~ 2010; and

(2) the first day of the month following certification to Clearwater County by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized Clearwater Health Services employees under section 2 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained under Minnesota Statutes, section 356.214. The cost of the actuarial calculations must be borne by the current employer or by the entity which is the employer following the privatization.

(d) Section 2 with respect to the Dassel Lakeside Community Home is effective upon the latter

of:

(1) the day after the governing body of the city of Dassel and its chief clerical officer timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month next following certification to the Dassel City Council by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized Dassel Lakeside Community Home employees under section 2 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained under Minnesota Statutes, section 356.214. The cost of the actuarial calculations must be borne by the city of Dassel or by the entity which is the employer following the privatization.

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

Sec. 49. CITY OF DULUTH AND DULUTH AIRPORT AUTHORITY; CORRECTING ERRONEOUS EMPLOYEE DEDUCTIONS, EMPLOYER CONTRIBUTIONS AND ADJUSTING OVERPAID BENEFITS.

Subdivision 1. **Application.** Notwithstanding any provisions of sections 10 and 11, or Minnesota Statutes 2008, chapters 353 and 356, to the contrary, this section establishes the procedures by which the executive director of the Public Employees Retirement Association shall adjust erroneous employee deductions and employer contributions paid on behalf of active employees and former members by the city of Duluth and by the Duluth Airport Authority on amounts determined by the executive director to be invalid salary under Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997, and October 23, 2008, and for adjusting benefits that were paid to former members and their beneficiaries based upon invalid salary amounts.

Subd. 2. **Refunds of employee deductions.** (a) The executive director shall refund to active employees or former members who are not receiving retirement annuities or benefits all erroneous employee deductions identified by the city of Duluth or by the Duluth Airport Authority as deductions taken from amounts determined to be invalid salary. The refunds must include interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date each refund is paid.

(b) The refund payment for active employees must be sent to the applicable governmental subdivision which must pay the refunded employee deductions plus interest to the active members who are employees of the city of Duluth or who are employees of the Duluth Airport Authority, as applicable.

(c) Refunds to former members must be mailed by the executive director of the Public Employees Retirement Association to the former member's last known address.

Subd. 3. **Benefit adjustments.** (a) For a former member who is receiving a retirement annuity or disability benefit, or for a person receiving an optional annuity or survivor benefit, the executive director must:

(1) adjust the annuity or benefit payment to the correct monthly benefit amount payable by reducing the average salary under Minnesota Statutes, section 353.01, subdivision 17a, by the invalid salary amounts;

(2) determine the amount of the overpaid benefits paid from the effective date of the annuity or benefit payment to the first of the month in which the monthly benefit amount is corrected;

(3) calculate the amount of employee deductions taken in error on invalid salary, including interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date the annuity or benefit is adjusted as provided under clause (1); and

(4) determine the net amount of overpaid benefits by reducing the amount of the overpaid annuity or benefit as determined in clause (2) by the amount of the erroneous employee deductions with interest determined in clause (3).

(b) If a former member's erroneous employee deductions plus interest determined under this section exceeds the amount of the person's overpaid benefits, the balance must be refunded to the person to whom the annuity or benefit is being paid.

(c) The executive director shall recover the net amount of all overpaid annuities or benefits as provided under subdivision 4.

Subd. 4. **Employer credits and obligations.** (a) The executive director shall provide a credit without interest to the city of Duluth and to the Duluth Airport Authority for the amount of that governmental subdivision's erroneous employer contributions. The credit must first be used to offset the net amount of the overpaid retirement annuities and the disability and survivor benefits that remains after applying the amount of erroneous employee deductions with interest as provided under subdivision 3, clause (4). The remaining erroneous employer contributions, if any, must be credited against future employer contributions required to be paid by the applicable governmental subdivision. If the overpaid benefits exceed the employer contribution credit, the balance of the overpaid benefits is the obligation of the city of Duluth or the Duluth Airport Authority, whichever is applicable.

(b) The Public Employees Retirement Association board of trustees shall determine the period of time and manner for the collection of overpaid retirement annuities and benefits, if any, from the city of Duluth and the Duluth Airport Authority.

EFFECTIVE DATE. (a) This section is effective for the city of Duluth the day after the Duluth city council and the chief clerical officer of the city of Duluth timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the city of Duluth.

(b) This section is effective for the Duluth Airport Authority the day after the Duluth Airport Authority and the chief clerical officer of the Duluth Airport Authority timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the Duluth Airport Authority.

Sec. 50. APPLICATION OF PUBLIC EMPLOYEES RETIREMENT ASSOCIATION ERRONEOUS RECEIPTS AND DISBURSEMENTS PROVISION; ELECTION.

(a) If adjustments under section 10 due to invalid salary amounts are in process as of the effective date of this section for employees or former employees of a governmental subdivision, the governing body of the governmental subdivision may elect to have the statute of limitations under section 10, paragraphs (c) and (g), apply to adjustments or corrections in process as of the effective date of

section 10, by a resolution of the governing body transmitted to the Public Employees Retirement Association executive director within 90 days after the effective date of this section.

(b) If the governing body of the governmental subdivision declines the treatment permitted under paragraph (a) or fails to submit a resolution in a timely manner, the statute of limitations does not apply to adjustments or corrections in process as of the effective date.

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

Sec. 51. **REPEALER.**

Minnesota Statutes 2008, sections 354.06, subdivision 6; and 354.55, subdivision 14, are repealed.

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

ARTICLE 5

LOCAL GOVERNMENT POST RETIREMENT OPTION PROGRAM

Section 1. Minnesota Statutes 2008, section 353.01, subdivision 11b, is amended to read:

Subd. 11b. **Termination of membership.** (a) "Termination of membership" means the conclusion of membership in the association for a person who has not terminated public service under subdivision 11a and occurs:

(1) when a person files a written election with the association to discontinue employee deductions under section 353.27, subdivision 7, paragraph (a), clause (1);

(2) when a city manager files a written election with the association to discontinue employee deductions under section 353.028, subdivision 2; ~~or~~

(3) when a member transfers to a temporary position and becomes excluded from membership under subdivision 2b, clause (4); or

(4) when a member is approved to participate in the postretirement option authorized under section 353.371.

(b) The termination of membership under ~~clause~~ clauses (3) and (4) must be reported to the association by the governmental subdivision.

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

Sec. 2. **[353.371] POSTRETIREMENT OPTION.**

Subdivision 1. **Eligibility.** (a) This section applies to a basic or coordinated member of the general employees retirement plan of the Public Employees Retirement Association who:

(1) for at least the five years immediately preceding separation under clause (2), was regularly scheduled to work 1,044 or more hours per year in a position covered by the general employees retirement plan of the Public Employees Retirement Association;

(2) terminates membership as defined under section 353.01, subdivision 11b;

(3) at the time of termination under clause (2), was at least age 62 and met the age and service requirements necessary to receive a retirement annuity from the plan and satisfied requirements for the commencement of the retirement annuity;

(4) agrees to accept a postretirement option position with the same or a different governmental subdivision, working a reduced schedule that is both:

(i) a reduction of at least 25 percent from the employee's number of previously regularly scheduled work hours; and

(ii) 1,044 hours or less in public; and

(5) is not eligible for participation in the state employee postretirement option program under section 43A.346.

(b) For purposes of this section, the length of separation requirement and termination of service requirement prohibiting return to work agreements under section 353.01, subdivisions 11a and 28, are not applicable.

Subd. 2. **Annuity reduction not applicable.** Notwithstanding any law to the contrary, the provisions of section 353.37 governing annuities of reemployed annuitants do not apply for the duration of a terminated member's employment in a postretirement option position.

Subd. 3. **Governing body discretion.** The governing body of the governmental subdivision has sole discretion to determine if and the extent to which a postretirement option position under this section is available to a terminated member. Any offer of such a position must be made in writing to the person by the governing body's designee in a manner prescribed by the executive director.

Subd. 4. **Duration.** Postretirement option employment shall be for an initial period not to exceed one year. At the end of the initial period, the governing body has sole discretion to determine if the offer of a postretirement option position will be renewed, renewed with modifications, or terminated. Postretirement option employment may be renewed annually, but may not be renewed after the individual attains retirement age as defined in United States Code, title 42, section 416(l).

Subd. 5. **Copy to fund.** The appointing authority shall provide the Public Employees Retirement Association with documentation, as prescribed by the executive director, of the terms of any agreement entered into with a member who accepts continuing employment with the appointing authority under the terms of this section, and any subsequent renewal agreement.

Subd. 6. **No service credit.** Notwithstanding any law to the contrary, a person may not earn service credit in the general employees retirement plan of the Public Employees Retirement Association for employment covered under this section, and employer contributions and payroll deductions for the retirement fund must not be made based on earnings of a person working under an agreement covered by this section. No change may be made to a monthly annuity or retirement allowance based on employment under this section.

Subd. 7. **Subsequent employment.** If a person has been in a postretirement option position and accepts any other position in public service beyond the period of time for which the person participated in the postretirement option provided under this section, the person may not earn service credit in the general employees retirement plan of the Public Employees Retirement Association, no employer contributions or payroll deductions for the retirement fund may be made, and the

provisions of section 353.37 apply.

EFFECTIVE DATE. This section is effective the day following final enactment and expires on June 30, 2011. Individuals must not be appointed to a postretirement option position after that date.

ARTICLE 6

TEACHER RETIREMENT BENEFIT AND FUNDING CHANGES

Section 1. Minnesota Statutes 2008, section 127A.50, subdivision 1, is amended to read:

Subdivision 1. **Aid adjustment.** Beginning in fiscal year 1998 and each year thereafter, the commissioner of education shall adjust state aid payments to school operating funds for Independent School District No. 625 and Independent School District No. 709 by the net amount of clauses (1) ~~and~~, (2), and (5), for Special School District No. 1 by the net amount of clauses (1), (2), ~~and~~ (4), and (5), and for all other districts, including charter schools, but excluding any education organizations that are prohibited from receiving direct state aids under section 123A.26 or 125A.75, subdivision 7, by the net amount of clauses (1), (2), (3), ~~and~~ (4), and (5):

(1) a decrease equal to each district's share of the fiscal year 1997 adjustment effected under Minnesota Statutes 1996, section 124.2139;

(2) an increase equal to one percent of the salaries paid to members of the general plan of the Public Employees Retirement Association in fiscal year 1997, multiplied by 0.35 for fiscal year 1998 and 0.70 each year thereafter;

(3) a decrease equal to 2.34 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 1997; ~~and~~

(4) an increase equal to 0.5 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 2007; ~~and~~

(5) an increase equal to the specified percentage of the salaries paid to members of the Teachers Retirement Association, the St. Paul Teachers Retirement Fund Association, and the Duluth Teachers Retirement Fund Association in fiscal year 2012 as follows:

<u>fiscal year 2012</u>	<u>0.5 percent</u>
<u>fiscal year 2013</u>	<u>0.5 percent</u>
<u>fiscal year 2014</u>	<u>0.5 percent</u>
<u>fiscal year 2015</u>	<u>0.5 percent</u>

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 354.05, subdivision 38, is amended to read:

Subd. 38. **Normal retirement age.** ~~"Normal retirement age" means age 65 for a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first becomes a member of the association after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(1), as amended, but not to exceed age 66. For a person with 30 years of service, normal retirement age means age 62.~~

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 354.42, subdivision 2, is amended to read:

Subd. 2. **Employee.** (a) The employee contribution to the fund is an amount equal to the following percentage of the salary of a member:

~~(1) after July 1, 2006, for a teacher employed by Special School District No. 1, Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the teacher is a basic member;~~

~~(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a coordinated member and 9.0 percent if the teacher is a basic member.~~

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>(1) before July 1, 2011</u>	<u>5.5 percent</u>	<u>9 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>	<u>9 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>	<u>9 percent</u>
<u>(4) unless paragraph (c) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>	<u>9 percent</u>
<u>(5) unless paragraph (c) applies, after June 30, 2014</u>	<u>7.5 percent</u>	<u>9 percent</u>

(b) When an employee contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(c) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4) or (5), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid under section 354A.12 and chapter 422A are compared to the actuarial required contributions of the retirement plan.

~~(b)~~ (d) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 354.42, subdivision 3, is amended to read:

Subd. 3. **Employer.** (a) The regular employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, and before July 1, 2007, is an amount equal to 5.0 percent of the salary of each of its teachers who is a coordinated member and 9.0 percent of the salary of each of its teachers who is a basic member. After July 1, 2007, and before July 1, 2011, the regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to 5.5 percent of salary of each coordinated member and 9.5 percent of salary of each basic member. The additional employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, is an amount equal to 3.64 percent of the salary of each teacher who is a coordinated

member or is a basic member. The regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to the following percentage of the salary of each teacher:

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>(1) before July 1, 2011</u>	<u>5.5 percent</u>	<u>9.5 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>	<u>9.5 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>	<u>9.5 percent</u>
<u>(4) unless paragraph (d) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>	<u>9.5 percent</u>
<u>(5) unless paragraph (d) applies, after June 30, 2014</u>	<u>7.5 percent</u>	<u>9.5 percent</u>

(b) When an employer contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

~~(b)~~(c) The employer contribution to the fund for every other employer is an amount equal to 5.0 percent of the salary of each coordinated member and 9.0 percent of the salary of each basic member before July 1, 2007, and 5.5 percent of the salary of each coordinated member and 9.5 percent of the salary of each basic member after June 30, 2007, and before July 1, 2011. The regular employer contribution to the fund by every other employer is an amount equal to the following percentage of the salary of each teacher:

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>(1) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>	<u>9.5 percent</u>
<u>(2) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>	<u>9.5 percent</u>
<u>(3) unless paragraph (d) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>	<u>9.5 percent</u>
<u>(4) unless paragraph (d) applies, after June 30, 2014</u>	<u>7.5 percent</u>	<u>9.5 percent</u>

(d) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4) or (5), and paragraph (c), clause (3) or (4), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid under section 354A.12 and chapter 422A are compared to the actuarial required contributions of the retirement plan.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4b. **Determination.** (a) For purposes of this section, a contribution sufficiency exists if, for purposes of the applicable plan, the total of the employee contributions, the employer contributions, and any additional employer contributions, if applicable, exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) For purposes of this section, a contribution deficiency exists if, for the applicable plan, the total employee contributions, the employer contributions, and any additional employer contributions are less than the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

Sec. 6. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4c. **Contribution rate revision.** Notwithstanding the contribution rate provisions stated in plan law, the employee and employer contribution rates must be adjusted:

(1) if after July 1, 2014, the regular actuarial valuations of the applicable plan under section 356.215 indicate that there is a contribution sufficiency under subdivision 2 equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the applicable plan must be decreased as determined under subdivision 4 to a level such that the sufficiency equals no more than 0.25 percent of covered payroll based on the most recent actuarial valuation; or

(2) if after July 1, 2014, the regular actuarial valuations of the applicable plan under section 356.215 indicate that there is a deficiency equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the applicable plan must be increased as determined under subdivision 4 to a level such that no deficiency exists based on the most recent actuarial valuation.

Sec. 7. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4d. **Reporting, commission review.** (a) The contribution rate increase or decrease must be determined by the executive director of the Teachers Retirement Association, must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1, and, if the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency has existed for two consecutive fiscal years based on the most recent actuarial valuations under section 356.215. If the actuarially required contribution exceeds or is less than the total support provided by the combined employee and employer contribution rates for the applicable plan by more than 0.5 percent of covered payroll, the applicable plan employee and employer contribution rates must be adjusted incrementally over one or more years to a level such that there remains a contribution sufficiency of no more than 0.25 percent of covered payroll.

(b) No incremental adjustment may exceed 0.25 percent of payroll for either the employee or

employer contribution rates per year in which any adjustment is implemented. For an applicable plan, a contribution rate adjustment under this section must not be made until at least two years have passed since fully implementing a previous adjustment under this section.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 354.44, subdivision 6, is amended to read:

Subd. 6. **Computation of formula program retirement annuity.** (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in paragraph (b) or (d) on the basis of each member's average salary under section 354.05, subdivision 13a, for the period of the member's formula service credit.

(b) This paragraph, in conjunction with paragraph (c), applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with paragraph (e), produces a higher annuity amount, in which case paragraph (d) applies. The average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of formula service credit ~~shall determine~~ determines the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2006:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service thereafter	the percent specified in section 356.315, subdivision 2, per year	the percent specified in section 356.315, subdivision 4, per year

For service rendered on or after July 1, 2006, the average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of service credit, determines the amount the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1a, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service after ten years of service	the percent specified in section 356.315, subdivision 2b, per year	the percent specified in section 356.315, subdivision 4, per year

(c)(i) This paragraph applies only to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under paragraph (b), in conjunction with this paragraph than when calculated under paragraph (d), in conjunction with paragraph (e).

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member ~~shall~~ must be paid a retirement annuity in an amount equal to the normal annuity provided

in paragraph (b) reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction ~~shall~~ must be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in paragraph (b), without any reduction by reason of early retirement.

(d) This paragraph applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this paragraph and in conjunction with paragraph (e), is higher than it is when calculated under paragraph (b), in conjunction with paragraph (c). For a basic member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member ~~shall determine~~ determines the amount of the retirement annuity to which the basic member is entitled. The annuity of a basic member who was a member of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, must be determined according to the annuity formula under the articles of incorporation of the former Minneapolis Teachers Retirement Fund Association in effect as of that date. For a coordinated member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified in section 356.315, subdivision 2, for each year of service rendered before July 1, 2006, ~~and~~ by the percent specified in section 356.315, subdivision 2b, for each year of service rendered on or after July 1, 2006, and before July 1, 2011, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2011, determines the amount of the retirement annuity to which the coordinated member is entitled. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

(e) This paragraph applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under paragraph (d) in conjunction with this paragraph than when calculated under paragraph (b), in conjunction with paragraph (c). An employee who retires under the formula annuity before the normal retirement age as defined by section 354.05, subdivision 38, shall must be paid the normal annuity provided in paragraph (d) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

(f) No retirement annuity is payable to a former employee with a salary that exceeds 95 percent of the governor's salary unless and until the salary figures used in computing the highest five successive years average salary under paragraph (a) have been audited by the Teachers Retirement Association and determined by the executive director to comply with the requirements and limitations of section

354.05, subdivisions 35 and 35a.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 354A.011, subdivision 15a, is amended to read:

Subd. 15a. **Normal retirement age.** "Normal retirement age" means age 65 for a person who first became a member of the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first became a member of the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association after June 30, 1989, normal retirement age means the higher of age 65 or retirement age, as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66. For a person with 30 years of service, normal retirement age means age 62. For a person who is a member of the basic program of the St. Paul Teachers Retirement Fund Association or the old law coordinated program of the Duluth Teachers Retirement Fund Association, normal retirement age means the age at which a teacher becomes eligible for a normal retirement annuity computed upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 10. Minnesota Statutes 2008, section 354A.12, subdivision 1, is amended to read:

Subdivision 1. **Employee contributions.** (a) The contribution required to be paid by each member of a teachers retirement fund association shall must not be less than the percentage of total salary specified below for the applicable association and program:

Association and Program	Percentage of Total Salary
Duluth Teachers Retirement Fund Association	
old law and new law	
coordinated programs	5.5 percent
<u>(1) before July 1, 2011</u>	<u>5.5 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>
<u>(4) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>
<u>(5) unless paragraph (b) applies, after June 30, 2014</u>	<u>7.5 percent</u>
St. Paul Teachers Retirement Fund Association	
basic program	8 percent
coordinated program	5.5 percent
<u>(6) before July 1, 2011</u>	<u>5.5 percent</u>
<u>(7) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>

<u>(8) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>
<u>(9) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>
<u>(10) unless paragraph (b) applies, after June 30, 2014</u>	<u>7.5 percent</u>

(b) When an employee contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(c) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4), (5), (9), or (10), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid are compared to the actuarial required contributions of the retirement plan.

(d) Contributions shall must be made by deduction from salary and must be remitted directly to the respective teachers retirement fund association at least once each month.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **Employer regular and additional contribution rates.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer Social Security taxes;

(2) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
<u>(A) before July 1, 2011</u>	<u>4.5 percent</u>
<u>(B) after June 30, 2011, and before July 1, 2012</u>	<u>5 percent</u>
<u>(C) after June 30, 2012, and before July 1, 2013</u>	<u>5.5 percent</u>
<u>(D) unless clause (3) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6 percent</u>
<u>(E) unless clause (3) applies, after June 30, 2014</u>	<u>6.5 percent</u>
St. Paul Teachers Retirement Fund Association	4.50 percent

<u>(F) before July 1, 2011</u>	<u>4.5 percent</u>
<u>(G) after June 30, 2011, and before July 1, 2012</u>	<u>5 percent</u>
<u>(H) after June 30, 2012, and before July 1, 2013</u>	<u>5.5 percent</u>
<u>(I) unless clause (3) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6 percent</u>
<u>(J) unless clause (3) applies, after June 30, 2014</u>	<u>6.5 percent</u>

(3) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (2), item (D), (E), (I), or (J), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid are compared to the actuarial required contributions of the retirement plan;

(4) for any basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to 8.00 percent of the salary of the basic member;

~~(4)~~(5) for a basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to 3.64 percent of the salary of the basic member;

~~(5)~~(6) for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
St. Paul Teachers Retirement Fund Association	
July 1, 1993 - June 30, 1994	0.50 percent
July 1, 1994 - June 30, 1995	1.50 percent
July 1, 1997, and thereafter	3.84 percent

(b) When an employer contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(c) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

~~(e)~~(d) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate

fund of the district or technical college.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 12. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 4a. **Determination.** (a) For purposes of this section, a contribution sufficiency exists if, for purposes of the applicable plan, the total of the employee contributions, the employer contributions, and any additional employer contributions, if applicable, exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) For purposes of this section, a contribution deficiency exists if, for the applicable plan, the total employee contributions, employer contributions, and any additional employer contributions are less than the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

Sec. 13. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 4b. **Contribution rate revision.** Notwithstanding the contribution rate provisions stated in plan law, the employee and employer contribution rates must be adjusted:

(1) if after July 1, 2014, the regular actuarial valuations of the applicable plan under section 356.215 indicate that there is a contribution sufficiency under subdivision 2 equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the applicable plan must be decreased as determined under subdivision 4 to a level such that the sufficiency equals no more than 0.25 percent of covered payroll based on the most recent actuarial valuation; or

(2) if after July 1, 2014, the regular actuarial valuations of the applicable plan under section 356.215 indicate that there is a deficiency equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the applicable plan must be increased as determined under subdivision 4 to a level such that no deficiency exists based on the most recent actuarial valuation.

Sec. 14. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 4c. **Reporting, commission review.** (a) The contribution rate increase or decrease must be determined by the executive director of the Duluth Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association, and must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1, and, if the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency has existed for two consecutive fiscal years based on the most recent actuarial valuations under section 356.215. If the actuarially required contribution exceeds or is less than the total support

provided by the combined employee and employer contribution rates for the applicable plan by more than 0.5 percent of covered payroll, the applicable plan employee and employer contribution rates must be adjusted incrementally over one or more years to a level such that there remains a contribution sufficiency of no more than 0.25 percent of covered payroll.

(b) No incremental adjustment may exceed 0.25 percent of payroll for either the employee or employer contribution rates per year in which any adjustment is implemented. For an applicable plan, a contribution rate adjustment under this section must not be made until at least two years have passed since fully implementing a previous adjustment under this section.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 15. Minnesota Statutes 2008, section 354A.31, subdivision 4, is amended to read:

Subd. 4. **Computation of normal coordinated retirement annuity; St. Paul fund.** (a) This subdivision applies to the coordinated program of the St. Paul Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) will apply. ~~The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each year of coordinated service thereafter.~~ The average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2011:

<u>Each year of service during first ten years</u>	<u>the percent specified in section 356.315, subdivision 1, per year</u>
<u>Each year of service thereafter</u>	<u>the percent specified in section 356.315, subdivision 2, per year</u>

For service rendered on or after July 1, 2011, the average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled:

<u>Each year of service during first ten years</u>	<u>the percent specified in section 356.315, subdivision 1a, per year</u>
<u>Each year of service thereafter</u>	<u>the percent specified in section 356.315, subdivision 2b, per year</u>

(d) This paragraph applies to a person who has become at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction

with subdivision 7 is higher than it is when calculated under paragraph (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service before July 1, 2011, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2011. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 16. Minnesota Statutes 2008, section 354A.31, subdivision 4a, is amended to read:

Subd. 4a. **Computation of normal coordinated retirement annuity; Duluth fund.** (a) This subdivision applies to the new law coordinated program of the Duluth Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) applies. ~~The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each subsequent year of coordinated service.~~ The average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2011:

<u>Each year of service during first ten years</u>	<u>the percent specified in section 356.315, subdivision 1, per year</u>
<u>Each year of service thereafter</u>	<u>the percent specified in section 356.315, subdivision 2, per year</u>

For service rendered on or after July 1, 2011, the average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled:

<u>Each year of service during first ten years</u>	<u>the percent specified in section 356.315, subdivision 1a, per year</u>
<u>Each year of service thereafter</u>	<u>the percent specified in section 356.315, subdivision 2b, per year</u>

(d) This paragraph applies to a person who is at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who is at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7, is higher than it is when calculated under paragraph (c) in conjunction with subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315,

subdivision 2, for each year of coordinated service before July 1, 2011, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2011. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 17. Minnesota Statutes 2008, section 354A.31, subdivision 7, is amended to read:

Subd. 7. **Actuarial reduction for early retirement.** This subdivision applies to a person who has become at least 55 years old and first becomes a coordinated member after June 30, 1989, and to any other coordinated member who has become at least 55 years old and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), and subdivision 4a, paragraph (d), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), in conjunction with subdivision 6. A coordinated member who retires before the full benefit age ~~shall~~ as defined by section 354A.011, subdivision 15a, must be paid the retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), or subdivision 4a, paragraph (d), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the person initially becomes a teacher after June 30, 2006. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 18. Minnesota Statutes 2008, section 356.315, is amended by adding a subdivision to read:

Subd. 2c. **Certain coordinated members.** The applicable benefit accrual rate is 2.1 percent.

EFFECTIVE DATE. This section is effective July 1, 2011.

ARTICLE 7

MNSCU RELATED RETIREMENT PROVISIONS

Section 1. **[136F.481] EARLY SEPARATION INCENTIVE PROGRAM.**

(a) Notwithstanding any provision of law to the contrary, the Board of Trustees of the Minnesota State Colleges and Universities may offer a targeted early separation incentive program for its employees.

(b) The early separation incentive program may include one or both of the following:

(1) cash incentives, not to exceed one year of base salary; or

(2) employer contributions to the postretirement healthcare savings plan established under section 352.98.

(c) To be eligible to receive an incentive, an employee must be at least age 55 and must have at least five years of employment by the Minnesota State Colleges and Universities System. The board of trustees shall establish the eligibility requirements for system employees to receive an incentive. The board of trustees shall file a copy of its proposed eligibility requirements with the chairs and ranking members of the Senate Committee on Higher Education and the Higher Education Budget and Policy Division of the Senate Committee on Finance and with the chair and ranking members of the Higher Education and Workforce Development Finance and Policy Division of the Finance Committee of the House of Representatives at least 30 days before their final adoption by the board of trustees, shall post the same document on the system website at the same time, and shall hold a public hearing on the proposed eligibility requirements. The type and any additional amount of the incentive to be offered may vary by employee classification, as specified by the board.

(d) The president of a college or university, consistent with paragraphs (b) and (c), may designate:

(1) specific departments or programs at the college or university whose employees are eligible to be offered the incentive program; or

(2) positions at the college or university eligible to be offered the incentive program.

(e) The chancellor, consistent with paragraphs (b) and (c), may designate:

(1) system office divisions whose employees are eligible to be offered the incentive program; or

(2) positions at the system office eligible to be offered the incentive program.

(f) Acceptance of the offered incentive must be voluntary on the part of the employee and must be in writing. The incentive may only be offered at the sole discretion of the president of the applicable college or university.

(g) A decision by the president of a college or university or by the chancellor not to offer an incentive may not be challenged.

(h) The cost of the incentive is payable by the college or university on whose behalf the president offered the incentive or from the system office budget if the chancellor offered the incentive. If a college or university is merged, the remaining cost of any early separation incentive must be borne by the successor institution. If a college or university is closed, the remaining cost of any early separation incentive must be borne by the board of trustees.

(i) Annually, the chancellor and the president of each college or university must report on the number and types of early separation incentives which were offered and utilized under this section. The report must be filed annually with the board of trustees and with the Legislative Reference Library on or before September 1.

EFFECTIVE DATE; SUNSET. This section is effective the day following final enactment and expires June 30, 2014.

Sec. 2. [136F.482] APPLICATION OF OTHER LAWS.

Unilateral implementation of section 136F.481 by the Board of Trustees of the Minnesota State Colleges and Universities, by the chancellor, or by a president of a college or university is not an unfair labor practice under chapter 179A.

EFFECTIVE DATE; SUNSET. This section is effective the day following final enactment and expires June 30, 2014.

Sec. 3. Minnesota Statutes 2008, section 354B.21, subdivision 2, is amended to read:

Subd. 2. **Coverage; election.** ~~(a) For Eligible persons who were employed by the former state university system or the former community college system before May 1, 1995, the person has the retirement coverage that the person had for employment immediately before May 1, 1995.~~

~~(b) For all other eligible persons~~ (a) Eligible persons who were employed by the Minnesota State Colleges and Universities System on or after June 30, 2009, unless otherwise specified in this section, ~~the eligible person is~~ are authorized to elect prospective Teachers Retirement Association plan coverage rather than coverage by the plan established by this chapter. The election of prospective Teachers Retirement Association plan coverage ~~shall~~ must be made within one year of commencing eligible Minnesota State Colleges and Universities system employment. If an election is not made within the specified election period due to a termination of Minnesota State Colleges and Universities system employment, an election may be made within 90 days of returning to eligible Minnesota State Colleges and Universities system employment. All elections are irrevocable. ~~Prior to~~ Before making an election, the eligible person ~~shall be~~ is covered by the plan indicated as default coverage under subdivision 3.

(b) Except as provided in paragraph (c), a purchase of service credit in the Teachers Retirement Association plan for any period or periods of Minnesota State Colleges and Universities system employment occurring ~~prior to~~ before the election under paragraph (b) (a) is prohibited.

(c) Notwithstanding paragraphs (a) and (b), a faculty member who is a member of the individual retirement account plan who first achieves tenure or its equivalent at a Minnesota state college or university after June 30, 2009, may elect to transfer retirement coverage under the teachers retirement plan within one year of the faculty member achieving tenure or its equivalent at a Minnesota state college or university. The faculty member electing Teachers Retirement Association coverage under this paragraph must purchase service credit in the Teachers Retirement Association for the entire period of time covered under the individual retirement account plan and the purchase payment amount must be determined under section 356.551. The Teachers Retirement Association may charge a faculty member transferring coverage a reasonable fee to cover the costs associated with computing the actuarial cost of purchasing service credit and making the transfer. A faculty member transferring from the individual retirement account plan to the Teachers Retirement Association may use any balances to the credit of the faculty member in the individual retirement account plan, any balances to the credit of the faculty member in the higher education supplemental retirement plan established under chapter 354C, or any source specified in section 356.441, subdivision 1, to purchase the service credit in the Teachers Retirement Association. If the total amount of payments under this paragraph are less than the total purchase payment amount under section 356.551, the payment amounts must be refunded to the applicable source. The retirement coverage transfer and service credit purchase authority under this paragraph expires with respect to any Minnesota State Colleges and Universities System faculty initially hired after June 30, 2014.

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

ARTICLE 8

ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION
POSTRETIREMENT ADJUSTMENTS

Section 1. Minnesota Statutes 2008, section 354A.29, subdivision 3, is amended to read:

Subd. 3. Postretirement adjustment. (a) ~~The postretirement adjustment described in the articles and bylaws of the St. Paul Teachers Retirement Fund Association~~ this section must be determined by the executive director of the St. Paul Teachers Retirement Fund Association and approved by the board annually ~~after June 30 using the procedures under this section.~~

(b) ~~On January 1, each eligible person who has been receiving an annuity or benefit under the articles of incorporation, the bylaws, or this chapter for at least 12 three calendar months as of the end of the fiscal last day of the previous calendar year is eligible to receive a postretirement adjustment of 2.0 percent that is payable each January 1 increase as further specified in this subdivision.~~

(c) A percentage adjustment must be computed and paid under this subdivision to eligible persons under paragraph (b). This adjustment is determined by reference to the Consumer Price Index for urban wage earners and clerical workers all items index as reported by the Bureau of Labor Statistics within the United States Department of Labor each year as part of the determination of annual cost-of-living adjustments to recipients of federal old-age, survivors, and disability insurance. For calculations of the cost-of-living adjustment under paragraph (d), the term "average third quarter Consumer Price Index value" means the sum of the monthly index values as initially reported by the Bureau of Labor Statistics for the months of July, August, and September, divided by 3.

(d) Before January 1 of each year, the executive director must calculate the amount of the cost-of-living adjustment by dividing the most recent average third quarter index value by the same average third quarter index value from the previous year, subtract one from the resulting quotient, and express the result as a percentage amount, which must be rounded to the nearest one-tenth of one percent.

(e) The amount calculated under paragraph (d) is the full cost-of-living adjustment to be applied as a permanent increase to the regular payment of each eligible member on January 1 of the next calendar year. For any eligible member whose effective date of benefit commencement occurred during the calendar year before the cost-of-living adjustment is applied, the full increase amount must be prorated on the basis of whole calendar quarters in benefit payment status in the calendar year prior to the January 1 on which the cost-of-living adjustment is applied, calculated to the third decimal place.

(f) The adjustment may not be less than zero, nor greater than five percent.

Sec. 2. BYLAW REVISION AUTHORIZATION.

Consistent with Minnesota Statutes, section 354A.12, subdivision 4, the board of the St. Paul Teachers Retirement Fund Association shall revise the bylaws or articles of incorporation of the teachers retirement fund association to conform with section 1.

Sec. 3. REPEALER.

Minnesota Statutes 2008, section 354A.29, subdivisions 2, 4, and 5, are repealed.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective January 1, 2010, and expire June 30, 2011.

ARTICLE 9

LOCAL POLICE AND PAID FIRE

RELIEF ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2008, section 69.77, subdivision 4, is amended to read:

Subd. 4. **Relief association financial requirements; minimum municipal obligation.** (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216, as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, and the Virginia Fire Department Relief Association, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80. No amount of administrative expenses under this clause are to be included in the financial requirements of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association; and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability by ~~December 31, 2010, the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association, and the Virginia Fire Department Relief Association, by the date determined under section 356.216, paragraph (a), clause (2), for the Bloomington Fire Department Relief Association, and by December 31, 2020, for the Minneapolis Police Relief Association,~~ as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8. ~~The, by that fund's amortization date as specified in this clause applies to all local police or salaried firefighters' relief associations and that date supersedes any amortization date specified in any applicable special law~~ paragraph (d).

(d) The Minneapolis Firefighters Relief Association special fund amortization date is determined under section 423C.15, subdivisions 3 and 4. The Virginia Fire Department Relief Association special fund amortization date is December 31, 2010. The Minneapolis Police Relief Association special fund and the Fairmont Police Relief Association special fund amortization date is December 31, 2020. The Bloomington Fire Department Relief Association special fund amortization date is determined under section 356.216, paragraph (a), clause (2). The amortization date specified in this paragraph supersedes any amortization date specified in any applicable special law.

~~(d)~~ (e) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, paragraph (a), clause (6), from the local police and salaried firefighters' relief association amortization aid program established under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the Fairmont City Council and the chief clerical officer of the city of Fairmont timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 2. Minnesota Statutes 2008, section 423C.03, subdivision 1, is amended to read:

Subdivision 1. **Board composition and elections.** The board shall consist of two persons appointed by the city and ~~ten~~ the number of other members specified in the association bylaws, but not to exceed ten, who must be selected by the members. Elections for active and retired positions on the board shall be conducted pursuant to the association's bylaws.

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

ARTICLE 10

VOLUNTARY STATEWIDE LUMP SUM

VOLUNTEER FIREFIGHTER RETIREMENT PLAN

Section 1. Minnesota Statutes 2008, section 11A.17, subdivision 1, is amended to read:

Subdivision 1. **Purpose; accounts; continuation.** (a) The purpose of the supplemental investment fund is to provide an investment vehicle for the assets of various public retirement plans and funds.

(b) The fund consists of ~~seven~~ eight investment accounts: an income share account, a growth share account, an international share account, a money market account, a fixed interest account, a bond market account, ~~and~~ a common stock index account, and a volunteer firefighter account.

(c) The supplemental investment fund is a continuation of the supplemental retirement fund in existence on January 1, 1980.

Sec. 2. Minnesota Statutes 2008, section 11A.17, subdivision 2, is amended to read:

Subd. 2. **Assets.** (a) The assets of the supplemental investment fund ~~shall~~ consist of the money certified and transmitted to the state board from the participating public retirement plans and funds ~~or from the board of the Minnesota State Colleges and Universities under section 136F.45 and from the voluntary statewide lump-sum volunteer firefighter retirement plan under section 353G.08.~~

(b) With the exception of the assets of the voluntary statewide lump-sum volunteer firefighter retirement fund, the assets must be used to purchase investment shares in the investment accounts as specified by the plan or fund. The assets of the voluntary statewide lump-sum volunteer firefighter retirement fund must be invested in the volunteer firefighter account.

(c) These accounts must be valued at least on a monthly basis but may be valued more frequently as determined by the State Board of Investment.

Sec. 3. Minnesota Statutes 2008, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms ~~shall~~, for the purposes of this chapter and chapters 423, 423A, 424 and 424A, have the meanings ascribed to them:

- (a) "Commissioner" means the commissioner of revenue.
- (b) "Municipality" means:
 - (1) a home rule charter or statutory city;
 - (2) an organized town;
 - (3) a park district subject to chapter 398;
 - (4) the University of Minnesota;
 - (5) for purposes of the fire state aid program only, an American Indian tribal government entity located within a federally recognized American Indian reservation;
 - (6) for purposes of the police state aid program only, an American Indian tribal government with a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93;
 - (7) for purposes of the police state aid program only, the Metropolitan Airports Commission with respect to peace officers covered under chapter 422A; and

(8) for purposes of the police state aid program only, the Department of Natural Resources and the Department of Public Safety with respect to peace officers covered under chapter 352B.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters' relief association.

(e) "Market value" means latest available market value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the State Board of Equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto insurance coverages as reported in the Minnesota business schedule of the annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification under subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the Peace Officers Standards and Training Board and is authorized to arrest with a warrant; and

(5) who is a member of a local police relief association to which section 69.77 applies, the State Patrol retirement plan, the public employees police and fire fund, or the Minneapolis Employees Retirement Fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized under section 424A.05, subdivision 3, clauses (2) and (3).

(j) "Municipal clerk, municipal clerk-treasurer, or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is

designated by the applicable governing body. In a park district, the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official designated by the Board of Regents. For the Metropolitan Airports Commission, the clerk is the person designated by the commission. For the Department of Natural Resources or the Department of Public Safety, the clerk is the respective commissioner. For a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93, the clerk is the person designated by the applicable American Indian tribal government.

(k) "Voluntary statewide lump-sum volunteer firefighter retirement plan" means the retirement plan established by chapter 353G.

Sec. 4. Minnesota Statutes 2008, section 69.011, subdivision 2, is amended to read:

Subd. 2. Qualification for fire or police state aid. (a) Unless retirement coverage is provided by the voluntary statewide lump-sum volunteer firefighter retirement plan, in order to qualify to receive fire state aid, on or before March 15 annually, in conjunction with the financial report required pursuant to section 69.051, the clerk of each municipality having a duly organized fire department as provided in subdivision 4, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighters' relief association whichever is applicable, and the fire chief, shall jointly certify the existence of the municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire department or the independent nonprofit firefighting corporation as of the preceding December 31.

(b) Where retirement coverage is provided by the voluntary statewide lump-sum volunteer firefighter retirement plan, the executive director of the Public Employees Retirement Association shall certify the existence of that coverage for each municipality and the municipal clerk or independent nonprofit firefighting corporation secretary, whichever applies, and the applicable fire chief shall certify the fire personnel and fire department equipment as of the preceding December 31.

(c) Certification ~~shall~~ must be made to the commissioner on a form prescribed by the commissioner and shall include any other facts the commissioner may require. The certification ~~shall~~ must be made to the commissioner in duplicate. Each copy of the certificate ~~shall~~ must be duly executed and is deemed to be an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and shall retain one copy.

~~(b)~~ (d) On or before March 15 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form prescribed by the commissioner together with the other facts the commissioner or auditor may require.

(e) Except as provided in subdivision 2b, on or before March 15 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (g), shall certify the number of such peace officers to the commissioner on forms prescribed by the commissioner. Credit for officers employed less than a full year ~~shall~~ must be apportioned. Each full month of employment of a qualifying officer during the calendar year ~~shall entitle~~ entitles the employing municipality or county to credit for 1/12 of the payment for employment of a peace officer for the entire year. For purposes of sections 69.011 to 69.051,

employment of a peace officer ~~shall commence~~ commences when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer ~~shall~~ may be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Sec. 5. Minnesota Statutes 2008, section 69.011, subdivision 4, is amended to read:

Subd. 4. **Qualification for state aid.** Any municipality in this state having for more than one year an organized fire department and officially established by the governing body of the municipality or an independent nonprofit fire fighting corporation created under the nonprofit corporation act of this state and operating exclusively for fire fighting purposes and providing retirement and relief benefits to its members ~~or~~, having a separate subsidiary incorporated firefighter's relief and pension association providing retirement and relief benefits, or participating in the voluntary statewide lump-sum volunteer firefighter retirement plan, may qualify to receive state aid if it meets the following minimum requirements or equivalent as determined by the state fire marshal by July 1, 1972:

- (a) ten paid or volunteer firefighters including a fire chief and assistant fire chief, and
- (b) regular scheduled meetings and frequent drills including instructions in fire fighting tactics and in the use, care, and operation of all fire apparatus and equipment, and
- (c) a motorized fire truck equipped with a motorized pump, 250 gallon or larger water tank, 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles, five-gallon hand pumps–tank extinguisher or equivalent, dry chemical extinguisher or equivalent, ladders, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, boots, and
- (d) apparatus suitably housed in a building of good construction with facilities for care of hose and equipment, and
- (e) a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm, and
- (f) if response is to be provided outside the corporate limits of the municipality wherein the fire department is located, the municipality has another piece of motorized apparatus to make the response, and
- (g) other requirements the commissioner establishes by rule.

Sec. 6. Minnesota Statutes 2008, section 69.021, subdivision 7, is amended to read:

Subd. 7. **Apportionment of fire state aid to municipalities and relief associations.** (a) The commissioner shall apportion the fire state aid relative to the premiums reported on the Minnesota Firetown Premium Reports filed under this chapter to each municipality and/or firefighters relief association.

(b) The commissioner shall calculate an initial fire state aid allocation amount for each municipality or fire department under paragraph (c) and a minimum fire state aid allocation amount for each municipality or fire department under paragraph (d). The municipality or fire department must receive the larger fire state aid amount.

(c) The initial fire state aid allocation amount is the amount available for apportionment as

fire state aid under subdivision 5, without inclusion of any additional funding amount to support a minimum fire state aid amount under section 423A.02, subdivision 3, allocated one-half in proportion to the population as shown in the last official statewide federal census for each fire town and one-half in proportion to the market value of each fire town, including (1) the market value of tax exempt property and (2) the market value of natural resources lands receiving in lieu payments under sections 477A.11 to 477A.14, but excluding the market value of minerals. In the case of incorporated or municipal fire departments furnishing fire protection to other cities, towns, or townships as evidenced by valid fire service contracts filed with the commissioner, the distribution must be adjusted proportionately to take into consideration the crossover fire protection service. Necessary adjustments ~~shall~~ must be made to subsequent apportionments. In the case of municipalities or independent fire departments qualifying for the aid, the commissioner shall calculate the state aid for the municipality or relief association on the basis of the population and the market value of the area furnished fire protection service by the fire department as evidenced by duly executed and valid fire service agreements filed with the commissioner. If one or more fire departments are furnishing contracted fire service to a city, town, or township, only the population and market value of the area served by each fire department may be considered in calculating the state aid and the fire departments furnishing service shall enter into an agreement apportioning among themselves the percent of the population and the market value of each service area. The agreement must be in writing and must be filed with the commissioner.

(d) The minimum fire state aid allocation amount is the amount in addition to the initial fire state aid amount that is derived from any additional funding amount to support a minimum fire state aid amount under section 423A.02, subdivision 3, and allocated to municipalities with volunteer firefighters relief associations or covered by the voluntary statewide lump-sum volunteer firefighter retirement plan based on the number of active volunteer firefighters who are members of the relief association as reported in the annual financial reporting for the calendar year 1993 to the Office of the State Auditor, but not to exceed 30 active volunteer firefighters, so that all municipalities or fire departments with volunteer firefighters relief associations receive in total at least a minimum fire state aid amount per 1993 active volunteer firefighter to a maximum of 30 firefighters. If a relief association is established after calendar year 1993 and before calendar year 2000, the number of active volunteer firefighters who are members of the relief association as reported in the annual financial reporting for calendar year 1998 to the Office of the State Auditor, but not to exceed 30 active volunteer firefighters, shall be used in this determination. If a relief association is established after calendar year 1999, the number of active volunteer firefighters who are members of the relief association as reported in the first annual financial reporting submitted to the Office of the State Auditor, but not to exceed 20 active volunteer firefighters, must be used in this determination. If a relief association is terminated as a result of providing retirement coverage for volunteer firefighters by the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, the number of active volunteer firefighters of the municipality covered by the statewide plan as certified by the executive director of the Public Employees Retirement Association to the commissioner and the state auditor, but not to exceed 30 active firefighters, must be used in this determination.

(e) Unless the firefighters of the applicable fire department are members of the voluntary statewide lump-sum volunteer firefighter retirement plan, the fire state aid must be paid to the treasurer of the municipality where the fire department is located and the treasurer of the municipality shall, within 30 days of receipt of the fire state aid, transmit the aid to the relief association if the relief association has filed a financial report with the treasurer of the municipality and has met all other statutory provisions pertaining to the aid apportionment. If the firefighters

of the applicable fire department are members of the voluntary statewide lump-sum volunteer firefighter retirement plan, the fire state aid must be paid to the executive director of the Public Employees Retirement Association and deposited in the voluntary statewide lump-sum volunteer firefighter retirement fund.

(f) The commissioner may make rules to permit the administration of the provisions of this section.

(g) Any adjustments needed to correct prior misallocations must be made to subsequent apportionments.

Sec. 7. Minnesota Statutes 2008, section 69.021, subdivision 9, is amended to read:

Subd. 9. **Appeal.** In the event that ~~any~~ a municipality, a county, a fire relief association, ~~or a~~ police relief association, or the voluntary statewide lump-sum volunteer firefighter retirement plan, feels itself to be aggrieved, it may request the commissioner to review and adjust the apportionment of funds within the county in the case of police state aid, or within the state in the case of fire state aid. The decision of the commissioner is subject to appeal, review, and adjustment by the district court in the county in which the applicable municipality, fire department, or police department is located.

Sec. 8. Minnesota Statutes 2008, section 69.031, subdivision 1, is amended to read:

Subdivision 1. **Commissioner of finance's warrant.** (a) The commissioner of finance shall issue to the Public Employees Retirement Association on behalf of a municipality or independent nonprofit firefighting corporation that is a member of the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G or to the county, municipality, or independent nonprofit firefighting corporation certified to the commissioner of finance by the commissioner a warrant for an amount equal to the amount of fire state aid or police state aid, whichever applies, certified for the applicable state aid recipient by the commissioner under section 69.021.

(b) The amount of state aid due and not paid by October 1 accrues interest at the rate of one percent for each month or part of a month the amount remains unpaid, beginning the preceding July 1.

Sec. 9. Minnesota Statutes 2008, section 69.031, subdivision 5, is amended to read:

Subd. 5. **Deposit of state aid.** (a) If the municipality or the independent nonprofit firefighting corporation is covered by the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, the executive director shall credit the fire state aid against future municipal contribution requirements under section 353G.08 and shall notify the municipality or independent nonprofit firefighting corporation of the fire state aid so credited at least annually. If the municipality or the independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, the municipal treasurer shall, within 30 days after receipt, transmit the fire state aid to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the fire state aid to the relief association until the complete financial report is filed. If the municipality or independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement

plan, if there is no relief association organized, or if the association has dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall deposit the money in the municipal treasury as provided for in section 424A.08 and the money may be disbursed only for the purposes and in the manner set forth in that section.

(b) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(1) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid must be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(2) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, including municipalities covered by section 353.665, the total state aid must be applied toward the municipality's employer contribution to the public employees police and fire fund under sections 353.65, subdivision 3, and 353.665, subdivision 8, paragraph (b), if applicable; or

(3) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (1), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (2), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (2) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association; or

(4) For a municipality in which police retirement coverage is provided in part by the public employees police and fire fund and in part by a local police consolidation account governed by chapter 353A and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the total police state aid must be applied towards the municipality's total employer contribution to the public employees police and fire fund and to the local police consolidation account under sections 353.65, subdivision 3, and 353A.09, subdivision 5.

(c) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund under section 353.65, subdivision 3.

(d) The designated Metropolitan Airports Commission official, upon receipt of the police state aid for the Metropolitan Airports Commission, shall apply the total police state aid first toward the

commission's employer contribution for police officers to the Minneapolis Employees Retirement Fund under section 422A.101, subdivision 2a, and, if there is any amount of police state aid remaining, shall apply that remainder toward the commission's employer contribution for police officers to the public employees police and fire plan under section 353.65, subdivision 3.

(e) The police state aid apportioned to the Departments of Public Safety and Natural Resources under section 69.021, subdivision 7a, is appropriated to the commissioner of finance for transfer to the funds and accounts from which the salaries of peace officers certified under section 69.011, subdivision 2a, are paid. The commissioner of revenue shall certify to the commissioners of public safety, natural resources, and finance the amounts to be transferred from the appropriation for police state aid. The commissioners of public safety and natural resources shall certify to the commissioner of finance the amounts to be credited to each of the funds and accounts from which the peace officers employed by their respective departments are paid. Each commissioner ~~must~~ shall allocate the police state aid first for employer contributions for employees funded from the general fund and then for employer contributions for employees funded from other funds. For peace officers whose salaries are paid from the general fund, the amounts transferred from the appropriation for police state aid must be canceled to the general fund.

Sec. 10. **[353G.01] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the words or terms defined in this section have the meanings given to them unless the context of the word or term clearly indicates otherwise.

Subd. 2. **Advisory board.** "Advisory board" means the board established by section 353G.03.

Subd. 3. **Board.** "Board" means the board of trustees of the Public Employees Retirement Association operating under section 353.03.

Subd. 4. **Commissioner of finance.** "Commissioner of finance" means the state official appointed and qualified under section 16A.01.

Subd. 5. **Executive director; director.** "Executive director" or "director" means the person appointed under section 353.03, subdivision 3a.

Subd. 6. **Fund.** "Fund" means the voluntary statewide lump-sum volunteer firefighter retirement fund established under section 353G.02, subdivision 3.

Subd. 7. **Good time service credit.** "Good time service credit" means the length of service credit for an active firefighter that is reported by the applicable fire chief based on the minimum firefighter activity standards of the fire department. The credit may be recognized on an annual or monthly basis.

Subd. 8. **Member.** "Member" means a volunteer firefighter who provides active service to a municipal fire department or an independent nonprofit firefighting corporation where the applicable municipality or corporation has elected coverage by the retirement plan under section 353G.05, and which service is covered by the retirement plan.

Subd. 9. **Municipality.** "Municipality" means a governmental entity specified in section 69.011, subdivision 1, paragraph (b), clauses (1), (2), and (5).

Subd. 10. **Plan.** "Plan" means the retirement plan established by this chapter.

Subd. 11. **Retirement fund.** "Retirement fund" means the voluntary statewide lump-sum volunteer firefighter retirement fund established under section 353G.02, subdivision 3.

Subd. 12. **Retirement plan.** "Retirement plan" means the retirement plan established by this chapter.

Subd. 13. **Standards for actuarial work.** "Standards for actuarial work" means the standards adopted by the Legislative Commission on Pensions and Retirement under section 3.85, subdivision 10.

Subd. 14. **State Board of Investment.** "State Board of Investment" means the board created by article XI, section 8, of the Minnesota Constitution and governed by chapter 11A.

Subd. 15. **Volunteer firefighter.** "Volunteer firefighter" means a person who is an active member of a municipal fire department or independent nonprofit firefighting corporation and who, in that capacity, engages in fire suppression activities, provides emergency response services, or delivers fire education or prevention services on an on-call basis.

Sec. 11. **[353G.02] PLAN AND FUND CREATION.**

Subdivision 1. **Retirement plan.** The voluntary statewide lump-sum volunteer firefighter retirement plan is created.

Subd. 2. **Administration.** The policy-making, management, and administrative functions related to the voluntary statewide lump-sum volunteer firefighter retirement plan and fund are vested in the board of trustees and the executive director of the Public Employees Retirement Association. Their duties, authority, and responsibilities are as provided in section 353.03. Fiduciary activities of the plan and fund must be undertaken in a manner consistent with chapter 356A.

Subd. 3. **Retirement fund.** (a) The voluntary statewide lump-sum volunteer firefighter retirement fund is created. The fund contains the assets attributable to the voluntary statewide lump-sum volunteer firefighter retirement plan.

(b) The State Board of Investment shall invest those portions of the retirement fund not required for immediate purposes in the voluntary statewide lump-sum volunteer firefighter retirement plan in the statewide lump-sum volunteer firefighter account of the Minnesota supplemental investment fund under section 11A.17.

(c) The commissioner of finance is the ex officio treasurer of the voluntary statewide lump-sum volunteer firefighter retirement fund. The commissioner of finance's general bond to the state covers all liability for actions taken as the treasurer of the retirement fund.

(d) The revenues of the retirement plan beyond investment returns are governed by section 353G.08 and must be deposited in the retirement fund. The disbursements of the retirement plan are governed by section 353G.08. The commissioner of finance shall transmit a detailed statement showing all credits to and disbursements from the retirement fund to the executive director monthly.

Subd. 4. **Audit; actuarial valuation.** (a) The legislative auditor shall periodically audit the voluntary statewide lump-sum volunteer firefighter retirement fund.

(b) An actuarial valuation of the voluntary statewide lump-sum volunteer firefighter retirement

plan may be performed periodically as determined to be appropriate or useful by the board. An actuarial valuation must be performed by the approved actuary retained under section 356.214 and must conform with section 356.215 and the standards for actuarial work. An actuarial valuation must contain sufficient detail for each participating employing entity to ascertain the actuarial condition of its account in the fund and the contribution requirement towards its account.

Subd. 5. **Legal advisor; attorney general.** (a) The legal advisor of the board and the executive director with respect to the voluntary statewide lump-sum volunteer firefighter retirement plan is the attorney general.

(b) The board may sue, petition, be sued, or be petitioned under this chapter with respect to the plan or the fund in the name of the board.

(c) The attorney general shall represent the board in all actions by the board or against the board with respect to the plan or the fund.

(d) Venue of all actions related to the plan or fund is in the court for the first judicial district unless the action is an appeal to the Court of Appeals under section 356.96.

Sec. 12. [353G.03] VOLUNTARY STATEWIDE LUMP-SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN ADVISORY BOARD.

Subdivision 1. **Establishment.** A Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan Advisory Board is created.

Subd. 2. **Function; purpose.** The advisory board shall provide advice to the board of trustees of the Public Employees Retirement Association about the retirement coverage needs of volunteer firefighters who are members of the plan and about the legislative and administrative changes that would assist the retirement plan in accommodating volunteer firefighters who are not members of the plan.

Subd. 3. **Composition.** (a) The advisory board consists of seven members.

(b) The advisory board members are:

(1) one representative of Minnesota townships, appointed by the Minnesota Association of Townships;

(2) two representatives of Minnesota cities, appointed by the League of Minnesota Cities;

(3) one representative of Minnesota fire chiefs, who is a fire chief, appointed by the Minnesota State Fire Chiefs Association;

(4) two representatives of Minnesota volunteer firefighters, who are active volunteer firefighters, appointed by the Minnesota State Fire Departments Association; and

(5) one representative of the Office of the State Auditor, designated by the state auditor.

Subd. 4. **Term.** (a) The initial terms on the advisory board for the Minnesota townships representative and the Minnesota fire chiefs representative are one year. The initial terms on the advisory board for one of the Minnesota cities representatives and one of the Minnesota active volunteer firefighter representatives are two years. The initial terms on the advisory board for

the other Minnesota cities representative and the other Minnesota active volunteer firefighter representative are three years. The term for the Office of the State Auditor representative is determined by the state auditor.

(b) Subsequent terms on the advisory board other than the Office of the State Auditor representative are three years.

Subd. 5. **Compensation of advisory board.** The compensation of members of the advisory board other than the Office of the State Auditor representative is governed by section 15.0575, subdivision 3.

Sec. 13. **[353G.04] INFORMATION FROM MUNICIPALITIES AND FIRE DEPARTMENTS.**

The chief executive officers of municipalities and fire departments with volunteer firefighters covered by the voluntary lump-sum volunteer firefighter retirement plan shall provide all relevant information and records requested by the board, the executive director, and the State Board of Investment as required to perform their duties.

Sec. 14. **[353G.05] PLAN COVERAGE ELECTION.**

Subdivision 1. **Coverage.** Any municipality or independent nonprofit firefighting corporation may elect to have its volunteer firefighters covered by the retirement plan.

Subd. 2. **Election of coverage.** (a) The process for electing coverage of volunteer firefighters by the retirement plan is initiated by a request to the executive director for a cost analysis of the prospective retirement coverage.

(b) If the volunteer firefighters are currently covered by a volunteer firefighters' relief association governed by chapter 424A, the cost analysis of the prospective retirement coverage must be requested jointly by the secretary of the volunteer firefighters' relief association, following approval of the request by the board of the volunteer firefighters' relief association, and the chief administrative officer of the entity associated with the relief association, following approval of the request by the governing body of the entity associated with the relief association. If the relief association is associated with more than one entity, the chief administrative officer of each associated entity must execute the request. If the volunteer firefighters are not currently covered by a volunteer firefighters' relief association, the cost analysis of the prospective retirement coverage must be requested by the chief administrative officer of the entity operating the fire department. The request must be made in writing and must be made on a form prescribed by the executive director.

(c) The cost analysis of the prospective retirement coverage by the statewide retirement plan must be based on the service pension amount under section 353G.11 closest to the service pension amount provided by the volunteer firefighters' relief association, if there is one, or to the lowest service pension amount under section 353G.11 if there is no volunteer firefighters' relief association, rounded up, and any other service pension amount designated by the requester or requesters. The cost analysis must be prepared using a mathematical procedure certified as accurate by an approved actuary retained by the Public Employees Retirement Association.

(d) If a cost analysis is requested and a volunteer firefighters' relief association exists that has filed the information required under section 69.051 in a timely fashion, upon request by the executive director, the state auditor shall provide the most recent data available on the financial

condition of the volunteer firefighters' relief association, the most recent firefighter demographic data available, and a copy of the current relief association bylaws. If a cost analysis is requested, but no volunteer firefighters' relief association exists, the chief administrative officer of the entity operating the fire department shall provide the demographic information on the volunteer firefighters serving as members of the fire department requested by the executive director.

(e) If a cost analysis is requested, the executive director of the State Board of Investment shall review the investment portfolio of the relief association, if applicable, for compliance with the applicable provisions of chapter 11A and for appropriateness for retention under the established investment objectives and investment policies of the State Board of Investment. If the prospective retirement coverage change is approved under paragraph (f), the State Board of Investment may require that the relief association liquidate any investment security or other asset which the executive director of the State Board of Investment has determined to be an ineligible or inappropriate investment for retention by the State Board of Investment. The security or asset liquidation must occur before the effective date of the transfer of retirement plan coverage. If requested to do so by the chief administrative officer of the relief association, the executive director of the State Board of Investment shall provide advice about the best means to conduct the liquidation.

(f) Upon receipt of the cost analysis, the governing body of the municipality or independent nonprofit firefighting corporation associated with the fire department shall approve or disapprove the retirement coverage change within 90 days. If the retirement coverage change is not acted upon within 90 days, it is deemed to be disapproved. If the retirement coverage change is approved by the applicable governing body, coverage by the voluntary statewide lump-sum volunteer firefighter retirement plan is effective on the next following January 1.

Sec. 15. [353G.06] DISESTABLISHMENT OF PRIOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIAL FUND UPON RETIREMENT COVERAGE CHANGE.

Subdivision 1. **Special fund disestablishment.** (a) On the date immediately prior to the effective date of the coverage change, the special fund of the applicable volunteer firefighters' relief association, if one exists, ceases to exist as a pension fund of the association and legal title to the assets of the special fund transfers to the State Board of Investment, with the beneficial title to the assets of the special fund remaining in the applicable volunteer firefighters.

(b) If the market value of the special fund of the volunteer firefighters' relief association for which retirement coverage changed under this chapter declines in the interval between the date of the most recent financial report or statement, and the special fund disestablishment date, the applicable municipality shall transfer an additional amount to the State Board of Investment equal to that decline. If more than one municipality is responsible for the direct management of the fire department, the municipalities shall allocate the additional transfer amount among the various applicable municipalities one-half in proportion to the population of each municipality and one-half in proportion to the market value of each municipality.

Subd. 2. **Other relief association changes.** In addition to the transfer and disestablishment of the special fund under subdivision 1, notwithstanding any provisions of chapter 424A or 424B to the contrary, upon the effective date of the change in volunteer firefighter retirement coverage, if the relief association membership elects to retain the relief association after the benefit coverage election, the following changes must be implemented with respect to the applicable volunteer

firefighters' relief association:

(1) the relief association board of trustees membership is reduced to five, comprised of the fire chief of the fire department and four trustees elected by and from the relief association membership;

(2) the relief association may only maintain a general fund, which continues to be governed by section 424A.06;

(3) the relief association is not authorized to receive the proceeds of any state aid or to receive any municipal funds; and

(4) the relief association may not pay any service pension or benefit that was not authorized as a general fund disbursement under the articles of incorporation or bylaws of the relief association in effect prior to the plan coverage election process.

Subd. 3. **Successor in interest.** Upon the disestablishment of the special fund of the volunteer firefighters' relief association under this section, the voluntary statewide lump-sum volunteer firefighter retirement plan is the successor in interest of the special fund of the volunteer firefighters' relief association for all claims against the special fund other than a claim against the special fund, the volunteer firefighters' relief association, the municipality, the fire department, or any person connected with the volunteer firefighters' relief association in a fiduciary capacity under chapter 356A or common law that was based on any act or acts which were not performed in good faith and which constituted a breach of a fiduciary obligation. As the successor in interest of the special fund of the volunteer firefighters' relief association, the voluntary statewide lump-sum volunteer firefighter retirement plan may assert any applicable defense in any judicial proceeding which the board of trustees of the volunteer firefighters' relief association or the municipality would have been entitled to assert.

Sec. 16. [353G.07] CERTIFICATION OF GOOD TIME SERVICE CREDIT.

(a) Annually, by March 31, the fire chief of the fire department with firefighters who are active members of the retirement plan shall certify to the executive director the good time service credit for the previous calendar year of each firefighter rendering active service with the fire department.

(b) The fire chief shall provide to each firefighter rendering active service with the fire department notification of the amount of good time service credit rendered by the firefighter for the calendar year. The good time service credit notification must be provided to the firefighter 60 days before its certification to the executive director of the Public Employees Retirement Association, along with an indication of the process for the firefighter to challenge the fire chief's determination of good time service credit. If the good time service credit amount is challenged in a timely fashion, the fire chief shall hold a hearing on the challenge, accept and consider any additional pertinent information, and make a final determination of good time service credit. The final determination of good time service credit by the fire chief is not reviewable by the executive director of the Public Employees Retirement Association or by the board of trustees of the Public Employees Retirement Association.

(c) The good time service credit certification is an official public document. If a false good time service credit certification is filed or if false information regarding good time service credits is provided, section 353.19 applies.

(d) The good time service credit certification must be expressed as a percentage of a full year of service during which an active firefighter rendered at least the minimum level and quantity of

fire suppression, emergency response, fire prevention, or fire education duties required by the fire department under the rules and regulations applicable to the fire department. No more than one year of good time service credit may be certified for a calendar year.

(e) If a firefighter covered by the retirement plan leaves active firefighting service to render active military service that is required to be covered by the federal Uniformed Services Employment and Reemployment Rights Act, as amended, the person must be certified as providing a full year of good time service credit in each year of the military service, up to the applicable limit of the federal Uniformed Services Employment and Reemployment Rights Act. If the firefighter does not return from the military service in compliance with the federal Uniformed Services Employment and Reemployment Rights Act, the good time service credits applicable to that military service credit period are forfeited and cancel at the end of the calendar year in which the federal law time limit occurs.

Sec. 17. [353G.08] RETIREMENT PLAN FUNDING; DISBURSEMENTS.

(a) Annually, the executive director shall determine the funding requirements of each account in the voluntary statewide lump-sum volunteer firefighter retirement plan on or before August 1. The funding requirements as directed under this section, must be determined using a mathematical procedure developed and certified as accurate by an approved actuary retained by the Public Employees Retirement Association and based on present value factors using a six percent interest rate, without any decrement assumptions. The funding requirements must be certified to the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan.

(b) The overall funding balance of each account for the current calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the current year must be calculated based on the good time service credit of active and deferred members as of that date.

(2) The total present assets of the account projected to December 31 of the current year, including receipts by and disbursements from the account anticipated to occur on or before December 31, must be calculated. To the extent possible, the market value of assets must be utilized in making this calculation.

(3) The amount of the total present assets calculated under clause (2) must be subtracted from the amount of the total accrued liability calculated under clause (1). If the amount of total present assets exceeds the amount of the total accrued liability, then the account is considered to have a surplus over full funding. If the amount of the total present assets is less than the amount of the total accrued liability, then the account is considered to have a deficit from full funding. If the amount of total present assets is equal to the amount of the total accrued liability, then the special fund is considered to be fully funded.

(c) The financial requirements of each account for the following calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the calendar year next following the current calendar year must be calculated based on the good

time service used in the calculation under paragraph (b), clause (1), increased by one year.

(2) The increase in the total accrued liability of the account for the following calendar year over the total accrued liability of the account for the current year must be calculated.

(3) The amount of anticipated future administrative expenses of the account must be calculated by multiplying the dollar amount of the administrative expenses for the most recent prior calendar year by the factor of 1.035.

(4) If the account is fully funded, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3).

(5) If the account has a deficit from full funding, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3) plus an amount equal to one-tenth of the amount of the deficit from full funding of the account.

(6) If the account has a surplus over full funding, the financial requirement of the account for the following calendar year is the financial requirement of the account calculated as though the account was fully funded under clause (4) and, if the account has also had a surplus over full funding during the prior two years, additionally reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the account.

(d) The required contribution of the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan is the annual financial requirements of the account of the retirement plan under paragraph (c) reduced by the amount of any fire state aid payable under sections 69.011 to 69.051 reasonably anticipated to be received by the retirement plan attributable to the entity or entities during the following calendar year, and an amount of interest on the assets projected to be received during the following calendar year calculated at the rate of six percent per annum. The required contribution must be allocated between the entities if more than one entity is involved. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(e) The required contribution calculated in paragraph (d) must be paid to the retirement plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the retirement plan by December 31, it is payable with interest at an annual compound rate of six percent from the date due until the date payment is received by the retirement plan. If the entity does not pay the full amount of the required contribution, the executive director shall collect the unpaid amount under section 353.28, subdivision 6.

(f) The assets of the retirement fund may only be disbursed for:

(1) the administrative expenses of the retirement plan;

(2) the investment expenses of the retirement fund;

(3) the service pensions payable under section 353G.10, 353G.11, 353G.14, or 353G.15; and

(4) the survivor benefits payable under section 353G.12.

Sec. 18. [353G.09] RETIREMENT BENEFIT ELIGIBILITY.

Subdivision 1. **Entitlement.** Except as provided in subdivision 3, an active member of the

retirement plan is entitled to a lump-sum service pension from the retirement plan if the person:

- (1) has separated from active service with the fire department for at least 30 days;
- (2) has attained the age of at least 50 years;
- (3) has completed at least five years of good time service credit as a member of the retirement plan; and
- (4) applies in a manner prescribed by the executive director for the service pension.

Subd. 2. **Vesting schedule; nonforfeitable portion of service pension.** If an active member has completed less than 20 years of good time service credit, the person's entitlement is to the nonforfeitable percentage of the applicable service pension amount, as follows:

<u>Completed years of good time service credit</u>	<u>Nonforfeitable percentage of the service pension</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>44 percent</u>
<u>7</u>	<u>48 percent</u>
<u>8</u>	<u>52 percent</u>
<u>9</u>	<u>56 percent</u>
<u>10</u>	<u>60 percent</u>
<u>11</u>	<u>64 percent</u>
<u>12</u>	<u>68 percent</u>
<u>13</u>	<u>72 percent</u>
<u>14</u>	<u>76 percent</u>
<u>15</u>	<u>80 percent</u>
<u>16</u>	<u>84 percent</u>
<u>17</u>	<u>88 percent</u>
<u>18</u>	<u>92 percent</u>
<u>19</u>	<u>96 percent</u>
<u>20 and thereafter</u>	<u>100 percent</u>

Subd. 3. **Alternative pension eligibility and computation.** (a) An active member of the retirement plan is entitled to an alternative lump-sum service pension from the retirement plan if the person:

- (1) has separated from active service with the fire department for at least 30 days;
- (2) has attained the age of at least 50 years or the age for receipt of a service pension under the benefit plan of the applicable former volunteer firefighters' relief association as of the date immediately prior to the election of the retirement coverage change, whichever is later;
- (3) has completed at least five years of active service with the fire department and at least five

years in total as a member of the applicable former volunteer firefighters' relief association or of the retirement plan, but has not rendered at least five years of good time service credit as a member of the retirement plan; and

(4) applies in a manner prescribed by the executive director for the service pension.

(b) The alternative lump-sum service pension is the service pension amount specified in the bylaws of the applicable former volunteer firefighters' relief association either as of the date immediately prior to the election of the retirement coverage change or as of the date immediately before the termination of firefighting services, whichever is earlier, multiplied by the total number of years of service as a member of that volunteer firefighters' relief association and as a member of the retirement plan.

Sec. 19. [353G.10] DEFERRED SERVICE PENSION AMOUNT.

A person who was an active member of a fire department covered by the retirement plan who has separated from active firefighting service for at least 30 days and who has completed at least five years of good time service credit, but has not attained the age of 50 years, is entitled to a deferred service pension on or after attaining the age of 50 years and applying in a manner specified by the executive director for the service pension. The service pension payable is the nonforfeitable percentage of the service pension under section 353G.09, subdivision 2, and is payable without any interest over the period of deferral.

Sec. 20. [353G.11] SERVICE PENSION LEVELS.

Subdivision 1. Levels. The retirement plan provides the following levels of service pension amounts to be selected at the election of coverage, or, if fully funded, thereafter:

<u>Level A</u>	<u>\$500 per year of good time service credit</u>
<u>Level B</u>	<u>\$750 per year of good time service credit</u>
<u>Level C</u>	<u>\$1,000 per year of good time service credit</u>
<u>Level D</u>	<u>\$1,500 per year of good time service credit</u>
<u>Level E</u>	<u>\$2,000 per year of good time service credit</u>
<u>Level F</u>	<u>\$2,500 per year of good time service credit</u>
<u>Level G</u>	<u>\$3,000 per year of good time service credit</u>
<u>Level H</u>	<u>\$3,500 per year of good time service credit</u>
<u>Level I</u>	<u>\$4,000 per year of good time service credit</u>
<u>Level J</u>	<u>\$4,500 per year of good time service credit</u>
<u>Level K</u>	<u>\$5,000 per year of good time service credit</u>
<u>Level L</u>	<u>\$5,500 per year of good time service credit</u>
<u>Level M</u>	<u>\$6,000 per year of good time service credit</u>
<u>Level N</u>	<u>\$6,500 per year of good time service credit</u>
<u>Level O</u>	<u>\$7,000 per year of good time service credit</u>

Level P

\$7,500 per year of good time service credit

Subd. 2. **Level selection.** At the time of the election to transfer retirement coverage, or on April 30 thereafter, the governing body or bodies of the entity or entities operating the fire department whose firefighters are covered by the retirement plan may request a cost estimate from the executive director of an increase in the service pension level applicable to the active firefighters of the fire department. Within 90 days of the receipt of the cost estimate prepared by the executive director using a procedure certified as accurate by the approved actuary retained by the Public Employees Retirement Association, the governing body or bodies may approve the service pension level change, effective for the following calendar year. If not approved in a timely fashion, the service pension level change is considered to have been disapproved.

Subd. 3. **Supplemental benefit.** The retirement plan also shall pay a supplemental benefit as provided for in section 424A.10.

Subd. 4. **Ancillary benefits.** No disability, death, funeral, or other ancillary benefit beyond a service pension or a survivor benefit is payable from the retirement plan.

Sec. 21. **[353G.12] SURVIVOR BENEFIT.**

Subdivision 1. **Entitlement.** (a) A survivor of a deceased active member of the retirement plan or a deceased deferred member of the retirement plan, upon application as prescribed by the executive director, is entitled to receive a survivor benefit.

(b) A survivor is the spouse of the member, or if none, the minor child or children of the member, or if none, the estate of the member.

Subd. 2. **Survivor benefit amount.** The amount of the survivor benefit is the amount of the service pension that would have been payable to the member of the retirement plan on the date of death if the member had been age 50 or older on that date.

Sec. 22. **[353G.13] PORTABILITY.**

Subdivision 1. **Eligibility.** An active firefighter who is a member of the retirement plan who also renders firefighting service and has good time service credit in the retirement plan from another fire department, if the good time service credit in the plan from a combination of periods totals at least five years, is eligible, upon complying with the other requirements of section 353G.09, to receive a service pension upon filing an application in the manner prescribed by the executive director, computed as provided in subdivision 2.

Subd. 2. **Combined service pension computation.** The service pension payable to a firefighter who qualifies under subdivision 1 is the per year of good time service credit service pension amount in effect for each account in which the firefighter has good time service credit as of the date on which the firefighter terminated active service with the fire department associated with the applicable account, multiplied by the number of years of good time service credit that the firefighter has in the applicable account.

Subd. 3. **Payment.** A service pension under this section must be paid in a single payment, with the applicable portion of the total service pension payment amount deducted from each account.

Sec. 23. **[353G.14] PURCHASE OF ANNUITY CONTRACTS.**

The executive director may purchase an annuity contract on behalf of a retiring firefighter with a total premium payment in an amount equal to the lump-sum service pension payable under section 353G.09 if the purchase was requested by the retiring firefighter in a manner prescribed by the executive director. The annuity contract must be purchased from an insurance carrier that is licensed to do business in this state. If purchased, the annuity contract is in lieu of any service pension or other benefit from the retirement plan. The annuity contract may be purchased at any time after the volunteer firefighter discontinues active service, but the annuity contract must stipulate that no annuity amounts are payable before the former volunteer firefighter attains the age of 50.

Sec. 24. [353G.15] INDIVIDUAL RETIREMENT ACCOUNT TRANSFER.

Upon receipt of a determination that the retirement plan is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, the executive director, upon request, shall transfer the service pension amount under sections 353G.08 and 353G.11 of a former volunteer firefighter who has terminated active firefighting services covered by the plan and who has attained the age of at least 50 years to the person's individual retirement account under section 408(a) of the federal Internal Revenue Code, as amended. The transfer request must be in a manner prescribed by the executive director and must be filed by the former volunteer firefighter who has sufficient service credit to be entitled to a service pension or, following the death of a participating active firefighter, must be filed by the deceased firefighter's surviving spouse.

Sec. 25. [353G.16] EXEMPTION FROM PROCESS.

The provisions of section 356.401 apply to the retirement plan.

Sec. 26. Minnesota Statutes 2008, section 356.20, subdivision 2, is amended to read:

Subd. 2. **Covered public pension plans and funds.** This section applies to the following public pension plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System;
- (2) the general employees retirement plan of the Public Employees Retirement Association;
- (3) the Teachers Retirement Association;
- (4) the State Patrol retirement plan;
- (5) the St. Paul Teachers Retirement Fund Association;
- (6) the Duluth Teachers Retirement Fund Association;
- (7) the Minneapolis Employees Retirement Fund;
- (8) the University of Minnesota faculty retirement plan;
- (9) the University of Minnesota faculty supplemental retirement plan;
- (10) the judges retirement fund;
- (11) a police or firefighter's relief association specified or described in section 69.77, subdivision 1a;
- (12) a volunteer firefighter relief association governed by section 69.771, subdivision 1;

- (13) the public employees police and fire plan of the Public Employees Retirement Association;
- (14) the correctional state employees retirement plan of the Minnesota State Retirement System;
and
- (15) the local government correctional service retirement plan of the Public Employees Retirement Association; and
- (16) the voluntary statewide lump-sum volunteer firefighter retirement plan.

Sec. 27. Minnesota Statutes 2008, section 356.401, subdivision 3, is amended to read:

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (9) the public employees defined contribution plan, established by chapter 353D;
- (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;
- (11) the voluntary statewide lump-sum volunteer firefighter retirement plan, established by chapter 353G;
- (12) the Teachers Retirement Association, established by chapter 354;
- ~~(12) (13) the Duluth Teachers Retirement Fund Association, established by chapter 354A;~~
- ~~(13) the Minneapolis Teachers Retirement Fund Association, established by chapter 354A;~~
- (14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;
- (15) the individual retirement account plan, established by chapter 354B;
- (16) the higher education supplemental retirement plan, established by chapter 354C;

- (17) the Minneapolis Employees Retirement Fund, established by chapter 422A;
- (18) the Minneapolis Police Relief Association, established by chapter 423B;
- (19) the Minneapolis Firefighters Relief Association, established by chapter 423C; and
- (20) the judges retirement fund, established by chapter 490.

Sec. 28. Minnesota Statutes 2008, section 356.96, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the terms in paragraphs (b) to (e) have the meanings given them.

(b) "Chief administrative officer" means the executive director of a covered pension plan or the executive director's designee or representative.

(c) "Covered pension plan" means a plan enumerated in section 356.20, subdivision 2, clauses (1) to (4), (10), and (13) to ~~(15)~~ (16), but does not mean the deferred compensation plan administered under sections 352.965 and 352.97 or to the postretirement health care savings plan administered under section 352.98.

(d) "Governing board" means the Board of Trustees of the Public Employees Retirement Association, the Board of Trustees of the Teachers Retirement Association, or the Board of Directors of the Minnesota State Retirement System.

(e) "Person" includes an active, retired, deferred, or nonvested inactive participant in a covered pension plan or a beneficiary of a participant, or an individual who has applied to be a participant or who is or may be a survivor of a participant, or a state agency or other governmental unit that employs active participants in a covered pension plan.

Sec. 29. Minnesota Statutes 2008, section 424A.10, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section:

(1) "qualified recipient" means an individual who receives a lump-sum distribution of pension or retirement benefits from a firefighters' relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for service that the individual has performed as a volunteer firefighter;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the legally married spouse of a deceased volunteer firefighter, or, if none, the surviving minor child or minor children of a deceased volunteer firefighter;

(3) "active volunteer firefighter" means a person who regularly renders fire suppression service for a municipal fire department or an independent nonprofit firefighting corporation, who has met the statutory and other requirements for relief association membership, and who has been a fully qualified member of the relief association or from the voluntary statewide lump-sum volunteer firefighter retirement plan for at least one month; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who terminated active firefighting service, has sufficient service credit from the applicable relief association or from

the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension, but has not applied for or has not received the service pension.

Sec. 30. Minnesota Statutes 2008, section 424A.10, subdivision 2, is amended to read:

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a firefighters' relief association or by the voluntary statewide lump-sum volunteer firefighter retirement plan of a lump-sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association must pay the supplemental benefit out of its special fund and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter retirement plan. The amount of this benefit equals ten percent of the regular lump-sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000. A supplemental benefit under this paragraph may not be paid to a survivor of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association or the retirement plan of a lump-sum survivor benefit ~~or funeral benefit~~ to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association if its articles of incorporation or bylaws so provide and the retirement plan may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit ~~or funeral benefit~~, but not to exceed \$2,000.

(c) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer firefighter benefit.

Sec. 31. Minnesota Statutes 2008, section 424A.10, subdivision 3, is amended to read:

Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the relief association ~~must~~ or the voluntary statewide lump-sum volunteer firefighter retirement plan shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located and shall reimburse the retirement plan by paying the reimbursement amount to the executive director of the Public Employees Retirement Association. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid

to the association, the reimbursement payment must be deposited in the special fund of the relief association and when paid to the retirement plan, the reimbursement payment must be deposited in the retirement fund of the plan.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

Sec. 32. EFFECTIVE DATE.

Sections 1 to 31 are effective August 1, 2009.

ARTICLE 11

VOLUNTEER FIRE RELIEF ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2008, section 69.031, subdivision 5, is amended to read:

Subd. 5. **Deposit of state aid.** (a) The municipal treasurer shall, within 30 days after receipt, transmit the fire state aid to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the fire state aid to the relief association until the complete financial report is filed. If there is no relief association organized, or if the association has dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall deposit the money in the municipal treasury ~~as provided for in section 424A.08~~ and the money may be disbursed only for the purposes and in the manner set forth in ~~that section 424A.08~~ or for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3.

(b) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(1) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid must be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(2) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, including municipalities covered by section 353.665, the total state aid must be applied toward the municipality's employer contribution to the public employees police and fire fund under sections 353.65, subdivision 3, and 353.665, subdivision 8, paragraph (b), if applicable; or

(3) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (1), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (2), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the

provisions of clause (2) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association; or

(4) For a municipality in which police retirement coverage is provided in part by the public employees police and fire fund and in part by a local police consolidation account governed by chapter 353A and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the total police state aid must be applied towards the municipality's total employer contribution to the public employees police and fire fund and to the local police consolidation account under sections 353.65, subdivision 3, and 353A.09, subdivision 5.

(c) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund under section 353.65, subdivision 3.

(d) The designated Metropolitan Airports Commission official, upon receipt of the police state aid for the Metropolitan Airports Commission, shall apply the total police state aid first toward the commission's employer contribution for police officers to the Minneapolis Employees Retirement Fund under section 422A.101, subdivision 2a, and, if there is any amount of police state aid remaining, shall apply that remainder toward the commission's employer contribution for police officers to the public employees police and fire plan under section 353.65, subdivision 3.

(e) The police state aid apportioned to the Departments of Public Safety and Natural Resources under section 69.021, subdivision 7a, is appropriated to the commissioner of finance for transfer to the funds and accounts from which the salaries of peace officers certified under section 69.011, subdivision 2a, are paid. The commissioner of revenue shall certify to the commissioners of public safety, natural resources, and finance the amounts to be transferred from the appropriation for police state aid. The commissioners of public safety and natural resources shall certify to the commissioner of finance the amounts to be credited to each of the funds and accounts from which the peace officers employed by their respective departments are paid. Each commissioner ~~must~~ shall allocate the police state aid first for employer contributions for employees funded from the general fund and then for employer contributions for employees funded from other funds. For peace officers whose salaries are paid from the general fund, the amounts transferred from the appropriation for police state aid must be canceled to the general fund.

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

Sec. 2. Minnesota Statutes 2008, section 69.771, subdivision 3, is amended to read:

Subd. 3. **Remedy for noncompliance; determination.** (a) A municipality in which there exists a firefighters' relief association as specified in subdivision 1 which does not comply with the applicable provisions of sections 69.771 to 69.776 or the provisions of any applicable special law relating to the funding or financing of the association does not qualify initially to receive, and is not entitled subsequently to retain, fire state aid under sections 69.011 to 69.051 until the reason for

the disqualification specified by the state auditor is remedied, whereupon the municipality or relief association, if otherwise qualified, is entitled to again receive fire state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied.

(b) The state auditor shall determine if a municipality to which a firefighters' relief association is directly associated or a firefighters' relief association fails to comply with the provisions of sections 69.771 to 69.776 or the funding or financing provisions of any applicable special law based upon the information contained in the annual financial report of the firefighters' relief association required under section 69.051, the actuarial valuation of the relief association, if applicable, the relief association officers' financial requirements of the relief association and minimum municipal obligation determination documentation under section 69.772, subdivisions 3 and 4; 69.773, subdivisions 4 and 5; or 69.774, subdivision 2, if requested to be filed by the state auditor, the applicable municipal or nonprofit firefighting corporation budget, if requested to be filed by the state auditor, and any other relevant documents or reports obtained by the state auditor.

(c) The municipality or nonprofit firefighting corporation and the associated relief association are not eligible to receive or to retain fire state aid if:

(1) the relief association fails to prepare or to file the financial report or financial statement under section 69.051;

(2) the relief association treasurer is not bonded in the manner and in the amount required by section 69.051, subdivision 2;

(3) the relief association officers fail to determine or improperly determine the accrued liability and the annual accruing liability of the relief association under section 69.772, subdivisions 2, 2a, and 3, paragraph (c), clause (2), if applicable;

(4) if applicable, the relief association officers fail to obtain and file a required actuarial valuation or the officers file an actuarial valuation that does not contain the special fund actuarial liability calculated under the entry age normal actuarial cost method, the special fund current assets, the special fund unfunded actuarial accrued liability, the special fund normal cost under the entry age normal actuarial cost method, the amortization requirement for the special fund unfunded actuarial accrued liability by the applicable target date, a summary of the applicable benefit plan, a summary of the membership of the relief association, a summary of the actuarial assumptions used in preparing the valuation, and a signed statement by the actuary attesting to its results and certifying to the qualifications of the actuary as an approved actuary under section 356.215, subdivision 1, paragraph (c);

(5) the municipality failed to provide a municipal contribution, or the nonprofit firefighting corporation failed to provide a corporate contribution, in the amount equal to the minimum municipal obligation if the relief association is governed under section 69.772, or the amount necessary, when added to the fire state aid actually received in the plan year in question, to at least equal in total the calculated annual financial requirements of the special fund of the relief association if the relief association is governed under section 69.773, and, if the municipal or corporate contribution is deficient, the municipality failed to include the minimum municipal obligation certified under section 69.772, subdivision 3, or 69.773, subdivision 5, in its budget and tax levy or the nonprofit firefighting corporation failed to include the minimum corporate obligation certified under section 69.774, subdivision 2, in the corporate budget;

(6) the defined benefit relief association did not receive municipal ratification for the most recent plan amendment when municipal ratification was required under section 69.772, subdivision 6; 69.773, subdivision 6; or 424A.02, subdivision 10;

(7) the relief association invested special fund assets in an investment security that is not authorized under section 69.775;

(8) the relief association had an administrative expense that is not authorized under section 69.80 or 424A.05, subdivision 3, or the municipality had an expenditure that is not authorized under section 424A.08;

(9) the relief association officers fail to provide a complete and accurate public pension plan investment portfolio and performance disclosure under section 356.219;

(10) the relief association fails to obtain the acknowledgment from a broker of the statement of investment restrictions under section 356A.06, subdivision 8b;

(11) the relief association officers permitted to occur a prohibited transaction under section 356A.06, subdivision 9, or ~~424A.001~~ 424A.04, subdivision 7 2a, or failed to undertake correction of a prohibited transaction that did occur; or

(12) the relief association pays a defined benefit service pension in an amount that is in excess of the applicable service pension maximum under section 424A.02, subdivision 3.

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

Sec. 3. Minnesota Statutes 2008, section 69.772, subdivision 4, is amended to read:

Subd. 4. **Certification of financial requirements and minimum municipal obligation; levy.**

(a) The officers of the relief association shall certify the financial requirements of the special fund of the relief association and the minimum obligation of the municipality with respect to the special fund of the relief association as determined under subdivision 3 to the governing body of the municipality on or before August 1 of each year. The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement under section 69.051. The schedule forms related to the determination of the financial requirements must be filed with the state auditor by March 31, annually, if the relief association is required to file a financial statement under section 69.051, subdivision 1a, or by June 30, annually, if the relief association is required to file a financial report and audit under section 69.051, subdivision 1.

(b) The municipality shall provide for at least the minimum obligation of the municipality with respect to the special fund of the relief association by tax levy or from any other source of public revenue.

(c) The municipality may levy taxes for the payment of the minimum municipal obligation without any limitation as to rate or amount and irrespective of any limitations imposed by other provisions of law upon the rate or amount of taxation until the balance of the special fund or any fund of the relief association has attained a specified level. In addition, any taxes levied under this section must not cause the amount or rate of any other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.

(d) If the municipality does not include the full amount of the minimum municipal obligations in its levy for any year, the officers of the relief association shall certify that amount to the county auditor, who shall spread a levy in the amount of the certified minimum municipal obligation on the taxable property of the municipality.

(e) If the state auditor determines that a municipal contribution actually made in a plan year was insufficient under section 69.771, subdivision 3, paragraph (c), clause (5), the state auditor may request a copy of the certifications under this subdivision from the relief association or from the city. The relief association or the city, whichever applies, must provide the certifications within 14 days of the date of the request from the state auditor.

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

Sec. 4. Minnesota Statutes 2008, section 69.772, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), or if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies ~~shall~~ is not be effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which ~~shall be~~ are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the ~~prior~~ surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification ~~shall~~ is no longer be effective without municipal ratification and any service pensions or retirement benefits payable after that date ~~shall~~ may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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

Sec. 5. Minnesota Statutes 2008, section 69.773, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 4, or if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies ~~shall~~ is not be effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which ~~shall be~~ are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the ~~prior~~ surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification ~~shall~~ is no longer be effective without municipal ratification and any service pensions or retirement benefits payable after that date ~~shall be~~ may paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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

Sec. 6. Minnesota Statutes 2008, section 356.219, subdivision 3, is amended to read:

Subd. 3. **Content of reports.** (a) The report required by subdivision 1 must include a written statement of the investment policy. Following that initial report, subsequent reports must include investment policy changes and the effective date of each policy change rather than a complete statement of investment policy, unless the state auditor requests submission of a complete current statement. The report must also include the information required by the following paragraphs, as applicable.

(b) If, after four years of reporting under this paragraph, the total portfolio time weighted rate of return, net of all investment related costs and fees, provided by the public pension plan differs by no more than 0.1 percent from the comparable return for the plan calculated by the Office of the State Auditor, and if a public pension plan has a total market value of \$25,000,000 or more as of the beginning of the calendar year, and if the public pension plan's annual audit is performed by the state auditor or by the legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and as of the end of the calendar year. At the discretion of the state

auditor, the public pension plan may be required to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class. If the market value of a public pension plan's fund drops below \$25,000,000 in a subsequent year, it must continue reporting under this paragraph for any subsequent year in which the public pension plan is not fully invested as specified in subdivision 1, paragraph (b), except that if the public pension plan's annual audit is not performed by the state auditor or legislative auditor, paragraph (c) applies.

(c) If paragraph (b) would apply if the annual audit were provided by the state auditor or legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class.

(d) For public pension plans to which paragraph (b) or (c) applies, the report required by subdivision 1 must also include a calculation of the total time-weighted rate of return available from index-matching investments assuming the asset class performance targets and target asset mix indicated in the written statement of investment policy. The provided information must include a description of indices used in the analyses and an explanation of why those indices are appropriate. This paragraph does not apply to any fully invested plan, as defined by subdivision 1, paragraph (b). Reporting by the State Board of Investment under this paragraph is limited to information on the Minnesota public pension plans required to be invested by the State Board of Investment under section 11A.23.

(e) If a public pension plan has a total market value of less than \$25,000,000 as of the beginning of the calendar year and was never required to file under paragraph (b) or (c), the report required by subdivision 1 must include the amount and date of each total portfolio injection and withdrawal. In addition, the report must include the market value of the total portfolio as of the beginning of the calendar year and for each quarter.

(f) Any public pension plan reporting under paragraph (b) or (c) must include computed time-weighted rates of return with the report, in addition to all other required information, as applicable. The chief administrative officer of the public pension plan submitting the returns must certify, on a form prescribed by the state auditor, that the returns have been computed by the pension plan's investment performance consultant or custodial bank. The chief administrative officer of the public pension plan submitting the returns also must certify that the returns are net of all costs and fees, including investment management fees, and that the procedures used to compute the returns are consistent with Bank Administration Institute studies of investment performance measurement and presentation standards set by the ~~Certified Financial Analyst~~ CFA Institute. If the certifications required under this paragraph are not provided, the reporting requirements of paragraph (c) apply.

(g) For public pension plans reporting under paragraph (e), the public pension plan must retain supporting information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio. The public pension plan must also retain the market value of each investment account and investment portfolio at the beginning of the calendar year and for each quarter. Information that is required to be collected and retained for any given year or years under this paragraph must be submitted to the Office of the State Auditor if the Office of the State Auditor requests in writing that the information be submitted by a public pension plan or plans, or

be submitted by the State Board of Investment for any plan or plans for which the State Board of Investment is the investment authority under this section. If the state auditor requests information under this subdivision, and the public plan fails to comply, the pension plan is subject to penalties under subdivision 5, unless penalties are waived by the state auditor under that subdivision.

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

Sec. 7. [420.20] PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS.

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

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

Sec. 8. Minnesota Statutes 2008, section 424A.001, subdivision 1, is amended to read:

Subdivision 1. **Terms defined.** Unless the context clearly indicates otherwise, as used in this chapter, the terms defined in this section have the meanings given.

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

Sec. 9. Minnesota Statutes 2008, section 424A.001, subdivision 1a, is amended to read:

Subd. 1a. **Ancillary benefit.** "Ancillary benefit" means a benefit payable from the special fund of the relief association other than a service pension that is permitted by law and that is provided for in the relief association bylaws.

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

Sec. 10. Minnesota Statutes 2008, section 424A.001, is amended by adding a subdivision to read:

Subd. 1b. **Defined benefit relief association.** "Defined benefit relief association" means a volunteer firefighters' relief association that provides a lump-sum service pension, provides a monthly benefit service pension, or provides a lump-sum service pension as an alternative to the monthly benefit service pension.

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

Sec. 11. Minnesota Statutes 2008, section 424A.001, is amended by adding a subdivision to read:

Subd. 1c. **Defined contribution relief association.** "Defined contribution relief association" means a volunteer firefighters' relief association that provides a service pension based solely on an individual account balance rather than a specified annual lump-sum or monthly benefit service pension amount.

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

Sec. 12. Minnesota Statutes 2008, section 424A.001, subdivision 2, is amended to read:

Subd. 2. **Fire department.** "Fire department" includes a municipal fire department and or an independent nonprofit firefighting corporation.

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

Sec. 13. Minnesota Statutes 2008, section 424A.001, subdivision 3, is amended to read:

Subd. 3. **Municipality.** "Municipality" means a municipality which has established a fire department with which the relief association is directly associated, or the municipalities which have entered into a contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary.

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

Sec. 14. Minnesota Statutes 2008, section 424A.001, subdivision 4, is amended to read:

Subd. 4. **Relief association.** "Relief association" means ~~(a)~~

(1) a volunteer firefighters' relief association or a volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association that is organized and incorporated under chapter 317A and any laws of the state, is governed by this chapter and chapter 69, and is directly associated with a fire department established by municipal ordinance; or

~~(b) (2) any separate separately incorporated volunteer firefighters' relief association that is subsidiary to and providing that provides service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation that is organized under the provisions of chapter 317A, is governed by this chapter, and operating operates exclusively for firefighting purposes. A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.~~

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

Sec. 15. Minnesota Statutes 2008, section 424A.001, subdivision 5, is amended to read:

Subd. 5. **Special fund.** "Special fund" means the special fund of a volunteer firefighters' relief association or the account for volunteer firefighters within the special fund of a partially salaried and partially volunteer firefighters' relief association.

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

Sec. 16. Minnesota Statutes 2008, section 424A.001, subdivision 6, is amended to read:

Subd. 6. **Surviving spouse.** For purposes of this chapter, and the ~~governing~~ bylaws ~~of any governing a relief association to which this chapter applies, the term~~ "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of the member's death.

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

Sec. 17. Minnesota Statutes 2008, section 424A.001, subdivision 8, is amended to read:

Subd. 8. **Firefighting service.** "Firefighting service," if the applicable municipality approves for a fire department that is a municipal department, or if the applicable contracting municipality or municipalities approve for a fire department that is an independent nonprofit firefighting corporation, includes fire department service rendered by fire prevention personnel.

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

Sec. 18. Minnesota Statutes 2008, section 424A.001, subdivision 9, is amended to read:

Subd. 9. **Separate from active service.** "Separate from active service" means ~~to~~ that a firefighter permanently ceases to perform fire suppression duties with a particular volunteer fire department, to permanently ceases to perform fire prevention duties, to permanently ceases to supervise fire suppression duties, and to permanently ceases to supervise fire prevention duties.

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

Sec. 19. Minnesota Statutes 2008, section 424A.001, subdivision 10, is amended to read:

Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who either:

(1) was a member of the applicable fire department or the independent nonprofit firefighting corporation and a member of the relief association on July 1, 2006; or

(2) became a member of the applicable fire department or the independent nonprofit firefighting corporation and is eligible for membership in the applicable relief association after June 30, 2006, and

(i) is engaged in providing emergency response services or delivering fire education or prevention services as a member of a municipal fire department, a joint powers entity fire department, or an independent nonprofit firefighting corporation;

(ii) is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under subdivision 8; and

(iii) meets any other minimum firefighter and service standards established by the fire department or the independent nonprofit firefighting corporation or specified in the articles of incorporation or bylaws of the relief association.

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

Sec. 20. [424A.002] AUTHORIZATION OF NEW OR CONTINUING VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

Subdivision 1. **Authorization.** A municipal fire department or an independent nonprofit firefighting corporation, with approval by the applicable municipality or municipalities, may establish a new volunteer firefighters' relief association or may retain an existing volunteer firefighters' relief association.

Subd. 2. **Defined benefit or defined contribution relief association.** The articles of incorporation or the bylaws of the volunteer firefighters' relief association must specify that the relief association is either a defined benefit relief association subject to sections 69.771 to 69.774,

424A.015, and 424A.02 or is a defined contribution relief association subject to sections 424A.015 and 424A.016.

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

Sec. 21. Minnesota Statutes 2008, section 424A.01, is amended to read:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subdivision 1. **Minors.** ~~It is unlawful for any~~ (a) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation to employ may include as a relief association member a minor serving as a volunteer firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a volunteer fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

(b) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.

Subd. 2. **Status of substitute volunteer firefighters.** ~~No person who is serving as a substitute volunteer firefighter shall be deemed~~ may be considered to be a firefighter for purposes of chapter 69 or this chapter ~~nor shall be~~ and no substitute volunteer firefighter is authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Subd. 3. **Status of nonmember volunteer firefighters.** No person who is serving as a firefighter in a fire department but who is not a member of the applicable firefighters' relief association ~~shall be~~ is entitled to any service pension or ancillary benefits from the relief association.

Subd. 4. **Exclusion of persons constituting an unwarranted health risk.** The board of trustees of every relief association may exclude from membership in the relief association all applicants who, due to some medically determinable physical or mental impairment or condition, ~~would~~ is determined to constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Notwithstanding any provision of section 363A.25, it ~~shall be~~ is a good and valid defense to a complaint or action brought under chapter 363A that the board of trustees of the relief association made a good faith determination that the applicant suffers from an impairment or condition constituting a predictable and unwarranted risk for the relief association if the determination was made following consideration of: ~~(a)~~ (1) the person's medical history; and ~~(b)~~ (2) the report of the physician completing a physical examination of the applicant ~~completed~~ undertaken at the expense of the relief association.

Subd. 5. **Fire prevention personnel.** (a) If the fire department is a municipal department and the applicable municipality approves, or if the fire department is an independent nonprofit firefighting corporation and the contracting municipality or municipalities approve, the fire department may employ or otherwise utilize the services of persons as volunteer firefighters to perform fire prevention duties and to supervise fire prevention activities.

(b) Personnel serving in fire prevention positions are eligible to be members of the applicable volunteer firefighter relief association and to qualify for service pension or other benefit coverage of the relief association on the same basis as fire department personnel who perform fire suppression duties.

(c) Personnel serving in fire prevention positions also are eligible to receive any other benefits under the applicable law or practice for services on the same basis as personnel who are employed to perform fire suppression duties.

Subd. 6. **Return to active firefighting after break in service.** (a) If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person may again become an active member of the relief association.

(b) A firefighter who returns to active relief association membership under paragraph (a) may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets a minimum period of resumption service specified in the relief association bylaws.

(c) A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph (b) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(d) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

(e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of

the termination of the resumption service. The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

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

Sec. 22. [424A.015] GENERALLY APPLICABLE VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION PENSION PLAN REGULATION.

Subdivision 1. **Separation from active service; exception.** (a) No service pension is payable to a person while the person remains an active member of the respective fire department, and a person who is receiving a service pension is not entitled to receive any other benefits from the special fund of the relief association.

(b) No relief association as defined in section 424A.001, subdivision 4, may pay a service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:

(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;

(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and

(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.

Subd. 2. **No assignment or garnishment.** A service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits is not subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518A.53. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may assign any service pension or ancillary benefit payments, and the association does not have the authority to recognize any assignment or pay over any sum which has been assigned.

Subd. 3. **Purchase of annuity contract.** A relief association that provides a service pension in

a single payment, if the governing articles of incorporation or bylaws so provide, may purchase an annuity contract on behalf of a retiring member in an amount equal to the service pension otherwise payable at the request of the person and in place of a direct payment to the person. The annuity contract must be purchased from an insurance carrier licensed to do business in this state.

Subd. 4. **Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, and that provides a single payment service pension, at the written request of the applicable retiring member or, following the death of the active member, at the written request of the deceased member's surviving spouse, may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension or the death or survivor benefit attributable to the member, whichever applies, to the requesting person's individual retirement account under section 408(a) of the Internal Revenue Code, as amended.

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

Sec. 23. **[424A.016] DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.**

Subdivision 1. **Defined contribution relief association authorization.** If the articles of incorporation or the bylaws governing the volunteer firefighters' relief association so provide exclusively, the relief association may pay a defined contribution lump-sum service pension instead of a defined benefit service pension governed by section 424A.02.

Subd. 2. **Defined contribution service pension eligibility.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined contribution service pension to each of its members who:

- (1) separates from active service with the fire department;
- (2) reaches age 50;
- (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated;
- (4) completes at least five years of active membership with the relief association before separation from active service; and
- (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive any disability benefit coverage, is not entitled to receive additional individual account allocation of fire state aid or municipal contribution towards a service pension, and is considered to have the status of a person entitled to a deferred service pension.

(c) The service pension earned by a volunteer under this chapter and the articles of incorporation and bylaws of the relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

Subd. 3. **Reduced vesting schedule.** If the articles of incorporation or bylaws of a defined contribution relief association so provide, a relief association may pay a reduced service pension not to exceed the nonforfeitable percentage of the account balance to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 2. The nonforfeitable percentage of pension amounts are as follows:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>52 percent</u>
<u>7</u>	<u>64 percent</u>
<u>8</u>	<u>76 percent</u>
<u>9</u>	<u>88 percent</u>
<u>10 and thereafter</u>	<u>100 percent</u>

Subd. 4. **Individual accounts.** (a) An individual account must be established for each firefighter who is a member of the relief association.

(b) To each individual active member account must be credited an equal share of:

- (1) any amounts of fire state aid received by the relief association;
- (2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and
- (3) any amounts equal to the share of the assets of the special fund to the credit of:

(i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service

credit if so provided in the bylaws of the relief association. The allocation method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

(d) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

(e) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

Subd. 5. **Service pension installment payments.** A defined contribution relief association, if the governing bylaws so provide, may pay, at the option of the retiring member and in lieu of a single payment of a service pension, the service pension in installments. The election of installment payments is irrevocable and must be made by the retiring member in writing and filed with the secretary of the relief association no later than 30 days before the commencement of payment of the service pension. The amount of the installment payments must be the fractional portion of the remaining account balance equal to one divided by the number of remaining annual installment payments.

Subd. 6. **Deferred service pensions.** (a) A member of a relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

(b) The deferred service pension is payable when the former member reaches age 50, or the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined contribution relief association may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(2) the investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the date on which the investment return is recognized by and credited to the special fund.

(d) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Subd. 7. **Limitation on ancillary benefits.** (a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested or nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

Subd. 8. **Filing of bylaw amendments.** Each relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

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

Sec. 24. Minnesota Statutes 2008, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service, ~~if~~ as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five

years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

(c) No municipality or nonprofit firefighting corporation may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level that this chapter would allow rather than a specific dollar amount or level.

(d) No relief association as defined in section 424A.001, subdivision 4, may pay a defined benefit service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:

(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;

(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and

(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.

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

Sec. 25. Minnesota Statutes 2008, section 424A.02, subdivision 2, is amended to read:

Subd. 2. **Nonforfeitable portion of service pension.** (a) If the articles of incorporation or bylaws of a defined benefit relief association so provide, a the relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

(b) The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws ~~times~~ multiplied by the applicable nonforfeitable percentage of pension.

(c) For a defined benefit volunteer firefighter relief association that pays a lump-sum service pension, a monthly benefit service pension, or a lump-sum service pension or a monthly benefit service pension as alternative benefit forms, the nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service

Nonforfeitable Percentage of
Pension Amount

5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

~~(d) For a volunteer firefighter relief association that pays a defined contribution service pension, the nonforfeitable percentage of pension amounts are as follows:~~

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	52 percent
7	64 percent
8	76 percent
9	88 percent
10 and thereafter	100 percent

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

Sec. 26. Minnesota Statutes 2008, section 424A.02, subdivision 3, is amended to read:

Subd. 3. **Flexible service pension maximums.** (a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 69.772, subdivision 4, or 69.773, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each defined benefit relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing ~~shall include~~ includes any amounts of fire state aid received or

receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 69.772, subdivision 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any.

(b) The maximum service pension which the defined benefit relief association has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met must be determined using the table in paragraph (c) or (d), whichever applies.

(c) For a defined benefit relief association where the governing bylaws provide for a monthly service pension to a retiring member, the maximum monthly service pension amount per month for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Service Pension Amount Payable per Month for Each Year of Service
\$...	\$.25
41	.50
81	1.00
122	1.50
162	2.00
203	2.50
243	3.00
284	3.50
324	4.00
365	4.50
405	5.00
486	6.00
567	7.00
648	8.00
729	9.00
810	10.00
891	11.00
972	12.00
1053	13.00

1134	14.00
1215	15.00
1296	16.00
1377	17.00
1458	18.00
1539	19.00
1620	20.00
1701	21.00
1782	22.00
1823	22.50
1863	23.00
1944	24.00
2025	25.00
2106	26.00
2187	27.00
2268	28.00
2349	29.00
2430	30.00
2511	31.00
2592	32.00
2673	33.00
2754	34.00
2834	35.00
2916	36.00
2997	37.00
3078	38.00
3159	39.00
3240	40.00
3321	41.00
3402	42.00
3483	43.00
3564	44.00
3645	45.00
3726	46.00

33RD DAY]

TUESDAY, APRIL 14, 2009

1921

3807	47.00
3888	48.00
3969	49.00
4050	50.00
4131	51.00
4212	52.00
4293	53.00
4374	54.00
4455	55.00
4536	56.00

Effective beginning December 31, 2008

4617	57.00
4698	58.00
4779	59.00
4860	60.00
4941	61.00
5022	62.00
5103	63.00
5184	64.00
5265	65.00

Effective beginning December 31, 2009

5346	66.00
5427	67.00
5508	68.00
5589	69.00
5670	70.00
5751	71.00
5832	72.00
5913	73.00
5994	74.00

Effective beginning December 31, 2010

6075	75.00
6156	76.00
6237	77.00

6318	78.00
6399	79.00
6480	80.00
6561	81.00
6642	82.00
6723	83.00
Effective beginning December 31, 2011	
6804	84.00
6885	85.00
6966	86.00
7047	87.00
7128	88.00
7209	89.00
7290	90.00
7371	91.00
7452	92.00
Effective beginning December 31, 2012	
7533	93.00
7614	94.00
7695	95.00
7776	96.00
7857	97.00
7938	98.00
8019	99.00
8100	100.00
any amount in excess of	
8100	100.00

(d) For a defined benefit relief association in which the governing bylaws provide for a lump-sum service pension to a retiring member, the maximum lump-sum service pension amount for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

Minimum Average Amount of Available
Financing per FirefighterMaximum Lump-Sum Service
Pension Amount Payable for Each
Year of Service

\$...	\$ 10
11	20
16	30
23	40
27	50
32	60
43	80
54	100
65	120
77	140
86	160
97	180
108	200
131	240
151	280
173	320
194	360
216	400
239	440
259	480
281	520
302	560
324	600
347	640
367	680
389	720
410	760
432	800
486	900
540	1000
594	1100

648	1200
702	1300
756	1400
810	1500
864	1600
918	1700
972	1800
1026	1900
1080	2000
1134	2100
1188	2200
1242	2300
1296	2400
1350	2500
1404	2600
1458	2700
1512	2800
1566	2900
1620	3000
1672	3100
1726	3200
1753	3250
1780	3300
1820	3375
1834	3400
1888	3500
1942	3600
1996	3700
2023	3750
2050	3800
2104	3900
2158	4000
2212	4100
2265	4200

33RD DAY]

TUESDAY, APRIL 14, 2009

1925

2319	4300
2373	4400
2427	4500
2481	4600
2535	4700
2589	4800
2643	4900
2697	5000
2751	5100
2805	5200
2859	5300
2913	5400
2967	5500
3021	5600
3075	5700
3129	5800
3183	5900
3237	6000
3291	6100
3345	6200
3399	6300
3453	6400
3507	6500
3561	6600
3615	6700
3669	6800
3723	6900
3777	7000
3831	7100
3885	7200
3939	7300
3993	7400
4047	7500

Effective beginning December 31, 2008

4101	7600
4155	7700
4209	7800
4263	7900
4317	8000
4371	8100
4425	8200
4479	8300
Effective beginning December 31, 2009	
4533	8400
4587	8500
4641	8600
4695	8700
4749	8800
4803	8900
4857	9000
4911	9100
Effective beginning December 31, 2010	
4965	9200
5019	9300
5073	9400
5127	9500
5181	9600
5235	9700
5289	9800
5343	9900
5397	10,000
any amount in excess of	
5397	10,000

(e) For a defined benefit relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump-sum service pension, the maximum service pension amount for each pension payment type must be determined using the applicable table contained in this subdivision.

(f) If a defined benefit relief association establishes a service pension in compliance with the

applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No defined benefit relief association is authorized to provide a service pension in an amount greater than the largest applicable flexible service pension maximum amount even if the amount of available financing per firefighter is greater than the financing amount associated with the largest applicable flexible service pension maximum.

(h) The method of calculating service pensions must be applied uniformly for all years of active service. Credit must be given for all years of active service except for caps on service credit if so provided in the bylaws of the relief association.

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

Sec. 27. Minnesota Statutes 2008, section 424A.02, subdivision 3a, is amended to read:

Subd. 3a. **Penalty for paying pension greater than applicable maximum.** (a) If a defined benefit relief association pays a service pension greater than the maximum service pension associated with the applicable average amount of available financing per active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum service pension amount specified in subdivision 3, paragraph (g), whichever is less, the state auditor shall:

(1) disqualify the municipality or the nonprofit firefighting corporation associated with the relief association from receiving fire state aid by making the appropriate notification to the municipality and the commissioner of revenue, with the disqualification applicable for the next apportionment and payment of fire state aid; and

(2) order the treasurer of the applicable relief association to recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment.

(b) Fire state aid amounts from disqualified municipalities for the period of disqualifications under paragraph (a), clause (1), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(c) The amount of any overpaid service pension recovered under paragraph (a), clause (2), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(d) The determination of the state auditor that a relief association has paid a service pension greater than the applicable maximum must be made on the basis of the information filed by the relief association and the municipality with the state auditor under sections 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other relevant information that comes to the attention of the state auditor. The determination of the state auditor is final. An aggrieved municipality, relief association, or person may appeal the determination under section 480A.06.

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

Sec. 28. Minnesota Statutes 2008, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association is entitled to a deferred service pension if the member:

(1) has completed the lesser of either the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

(b) The deferred service pension is payable when the former member reaches age 50, or the minimum age specified in the bylaws governing the relief association if that age is greater than age 50, and when the former member makes a valid written application.

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(2) at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10.

(d) Interest under paragraph (c), clause (2), is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

~~(e) A relief association that provides a defined contribution service pension may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid in one of the manners specified in paragraph (c) or alternatively the relief association may credit any investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the date on which the investment return is recognized by and credited to the special fund.~~

~~(e)~~ (e) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump-sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

~~(g)~~ (f) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

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

Sec. 29. Minnesota Statutes 2008, section 424A.02, subdivision 8, is amended to read:

Subd. 8. **Lump-sum service pensions; installment payments.** (a) Any A defined benefit relief association, if the governing bylaws so provide, may pay, at the option of the ~~retiring member~~ intended recipient and in lieu of a single payment of a lump-sum service pension or survivor benefit, a lump-sum service pension or survivor benefit in installments.

(b) The election of installment payments ~~shall be~~ is irrevocable and ~~shall~~ must be made by the ~~retiring member~~ intended recipient in writing and filed with the secretary of the relief association no later than 30 days ~~prior to~~ before the commencement of payment of the service pension or survivor benefit. The amount of the installment payments ~~shall~~ must be determined ~~so that the present value of the aggregate installment payments computed at an interest rate of five percent, compounded annually, is equal to the amount of the single lump-sum payment which would have been made had the installment payments option not been elected. The payment of each installment shall include interest at the rate of five percent, compounded annually on the reserve supporting the remaining installment payments as of the date on which the previous installment payment was paid and computed from the date on which the previous installment payment was paid to the date of payment for the current installment payment in any reasonable manner provided for in the governing bylaws, but the total amount of installment payments may not exceed the single payment service pension amount plus interest at an annual rate of five percent on the amount of delayed payments for the period during which payment was delayed.~~

~~(c) To the extent that the commissioner of commerce deems it to be necessary or practical, the commissioner may specify and issue procedures, forms or mathematical tables for use in performing the calculations required pursuant to this subdivision.~~

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

Sec. 30. Minnesota Statutes 2008, section 424A.02, subdivision 9, is amended to read:

Subd. 9. **Limitation on ancillary benefits.** Any A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide for a lump-sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member,

may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of ~~any a~~ defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

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

Sec. 31. Minnesota Statutes 2008, section 424A.02, subdivision 9a, is amended to read:

Subd. 9a. **Postretirement increases.** Notwithstanding any provision of general or special law to the contrary, a defined benefit relief association paying a monthly service pension may provide a postretirement increase to retired members and ancillary benefit recipients of the relief association if (1) the relief association adopts an appropriate bylaw amendment; and (2) the bylaw amendment is approved by the municipality pursuant to subdivision 10 and section 69.773, subdivision 6. The postretirement increase ~~shall be~~ is applicable only to retired members and ancillary benefit recipients receiving a service pension or ancillary benefit as of the effective date of the bylaw amendment. The authority to provide a postretirement increase to retired members and ancillary benefit recipients of a relief association contained in this subdivision ~~shall supersede~~ supersedes any prior special law authorization relating to the provision of postretirement increases.

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

Sec. 32. Minnesota Statutes 2008, section 424A.02, subdivision 9b, is amended to read:

Subd. 9b. **Repayment of service pension in certain instances.** If a retired volunteer firefighter does not permanently separate from active firefighting service as required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a firefighter in the same volunteer fire department or as a person in charge of firefighters in the same volunteer fire department, no additional service pension amount is payable to the person, no additional service is creditable to the person, and the person ~~shall~~ must repay to the defined benefit relief association any previously received service pension.

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

Sec. 33. Minnesota Statutes 2008, section 424A.02, subdivision 10, is amended to read:

Subd. 10. **Local approval of bylaw amendments; filing requirements.** (a) Each defined benefit relief association to which this section applies ~~shall~~ must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing

body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor ~~shall disqualify~~ disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding ~~pursuant to under~~ section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association ~~pursuant to under~~ section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized ~~pursuant to under~~ section 69.80 payable from the special fund of the relief association ~~shall be~~ is effective until it has been ratified by the governing body or bodies of the appropriate municipalities. If the municipality is not required to provide financial support to the special fund ~~pursuant to under~~ this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the ~~prior~~ surplus over full funding reported in the prior year and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the future subsequent calendar year's fire state aid to be received by the relief association.

(c) If the relief association pays only a lump-sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification ~~pursuant to under~~ this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund ~~pursuant to under~~ this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification ~~shall be~~ is no longer ~~be~~ effective without municipal ratification, and any service pensions or ancillary benefits payable after that date ~~shall~~ must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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

Sec. 34. Minnesota Statutes 2008, section 424A.02, subdivision 12, is amended to read:

Subd. 12. **Transfer of service credit to new district.** Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' defined benefit relief association ~~shall be~~ is entitled to a nonforfeitable service pension from the new relief association upon completion of a combined total of 20 years active service in the disbanded and the new departments. The amount of the service pension ~~shall be~~ is based upon years of service in the new department only; and ~~shall~~ must be in an amount equal to the accrued liability for the

appropriate years of service calculated in accordance with section 69.772, subdivision 2.

Sec. 35. Minnesota Statutes 2008, section 424A.02, subdivision 13, is amended to read:

Subd. 13. **Combined service pensions.** (a) If the articles of incorporation or bylaws of the defined benefit relief associations so provide, a volunteer firefighter with credit for service as an active firefighter in more than one defined benefit volunteer firefighters relief association is entitled, when the applicable requirements of paragraph (b) are met and when otherwise qualified, to a prorated service credit from each relief association.

(b) A volunteer firefighter receiving a prorated service pension under this subdivision must have a total amount of service credit of ten years or more, if the bylaws of every affected relief association does do not require specify only a five-year service vesting requirement, or five years or more, if the bylaws of every affected relief association requires require only a five-year service vesting requirement, as a member of two or more relief associations otherwise qualified. The member must have one year or more of service credit in each relief association. The prorated service pension must be based on the service pension amount in effect for the relief association on the date on which active volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and must give notice of membership to the prior association within two years of the date of termination of active service with the prior association. The notice must be attested to by the second or subsequent relief association secretary.

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

Sec. 36. Minnesota Statutes 2008, section 424A.021, is amended to read:

424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. **Authorization.** Subject to restrictions stated in this section, a volunteer firefighter who is absent from firefighting service due to service in the uniformed services, as defined in United States Code, title 38, section 4303(13), may obtain service credit if the relief association is a defined benefit plan or an allocation of ~~any fire state aid, any municipal contributions, and any investment return received~~ by the relief association as though the person was an active member if the relief association is a defined contribution plan for the period of the uniformed service, not to exceed five years, unless a longer period is required under United States Code, title 38, section 4312.

Subd. 2. **Limitations.** (a) To be eligible for service credit or an ~~investment return~~ allocation as though an active member under this section, the volunteer firefighter must return to firefighting service with coverage by the same relief association or by the successor to that relief association upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e).

(b) Service credit or an ~~investment return~~ allocation as though an active member is not authorized if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(c) Service credit or an ~~investment return~~ allocation as though an active member is not authorized if the firefighter fails to provide notice to the fire department that the individual is leaving to provide service in the uniformed service, unless it is not feasible to provide that notice due to the emergency nature of the situation.

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

Sec. 37. Minnesota Statutes 2008, section 424A.03, is amended to read:

424A.03 UNIFORMITY OF VOLUNTEER FIREFIGHTER SERVICE PENSION AND RETIREMENT BENEFITS.

Subdivision 1. **Limitation on nonuniformity of pensions.** Every partially salaried and partially volunteer firefighters' relief association ~~shall~~ must provide service pensions to volunteer firefighter members based on the years of service of the members not on the compensation paid to the members for firefighting services. Each relief association ~~shall~~ must provide service pensions to salaried members as set forth in chapter 424 and applicable special laws.

Subd. 2. **Penalties for violations.** ~~Any A~~ A municipality which has a fire department ~~to which associated with~~ a relief association which violates the provisions of subdivision 1 is directly associated or which contracts with an independent nonprofit firefighting corporation ~~of which associated with~~ a relief association which violates the provisions of subdivision 1 is a subsidiary ~~shall~~ may not be included in the apportionment of fire state aid ~~by the commissioner of commerce to the applicable county auditor pursuant to~~ under section 69.021, subdivision 6, and ~~shall may not~~ may not be included in the apportionment of fire state aid ~~by the county auditor to the various municipalities pursuant to~~ under section 69.021, subdivision 7.

Subd. 3. **Exception to application of limitation and penalty.** The limitation provided for in subdivision 1 ~~shall~~ does not apply to any relief association which ~~prior to~~ before January 1, 1957, had established a definite service pension formula for members of the partially salaried and partially volunteer firefighters' relief association who are regularly employed firefighters.

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

Sec. 38. Minnesota Statutes 2008, section 424A.04, is amended to read:

424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.

Subdivision 1. **Membership.** (a) A relief association that is directly associated with a municipal fire department must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association and three trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association which provides a monthly benefit service pension may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three municipal trustees must be one elected municipal official and one elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department.

(b) A relief association that is a subsidiary of an independent nonprofit firefighting corporation must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association, two trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated, and one trustee ~~shall~~ must be the fire chief serving with the independent nonprofit firefighting corporation. The bylaws of a relief association may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who

is elected by the membership of the relief association. The two municipal trustees must be elected or appointed municipal officials, selected as follows:

(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the municipal trustees must be two officials of the contracting municipality who are designated annually by the governing body of the municipality; or

(2) if two or more municipalities contract with the independent nonprofit corporation, the municipal trustees must be one official from each of the two largest municipalities in population who are designated annually by the governing bodies of the applicable municipalities.

(c) The municipal trustees for a relief association that is directly associated with a fire department operated as or by a joint powers entity must be the fire chief of the fire department and two trustees designated annually by the joint powers board. The municipal trustees for a relief association that is directly associated with a fire department service area township must be the fire chief of the fire department and two trustees designated by the township board.

(d) If a relief association lacks the municipal board members provided for in paragraph (a), (b), or (c) because the fire department is not located in or associated with an organized municipality, joint powers entity, or township, the municipal board members must be the fire chief of the fire department and two board members appointed from the fire department service area by the board of commissioners of the applicable county.

(e) The term of ~~these~~ the appointed municipal board members is one year or until the person's successor is qualified, whichever is later.

(f) A municipal trustee under paragraph (a), (b), (c), or (d) has all the rights and duties accorded to any other trustee, except the right to be an officer of the relief association board of trustees.

(g) A board must have at least three officers, who are a president, a secretary and a treasurer. These officers must be elected from among the elected trustees by either the full board of trustees or by the relief association membership, as specified in the bylaws. In no event may any trustee hold more than one officer position at any one time. The terms of the elected trustees and of the officers of the board must be specified in the bylaws of the relief association, but may not exceed three years. If the term of the elected trustees exceeds one year, the election of the various trustees elected from the membership must be staggered on as equal a basis as is practicable.

Subd. 2. **Fiduciary duty.** The board of trustees of a relief association shall undertake their activities consistent with chapter 356A.

Subd. 2a. **Fiduciary responsibility.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care specified in section 11A.09. In addition, the trustees shall act in accordance with chapter 356A. Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with chapter 356A. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that the transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member;
or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. A transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Subd. 3. **Conditions on relief association consultants.** (a) If a volunteer firefighter relief association ~~hires~~ employs or contracts with a consultant to provide legal or financial advice, the secretary of the relief association shall obtain and the consultant shall provide to the secretary of the relief association a copy of the consultant's certificate of insurance.

(b) A consultant is any person who is employed under contract to provide legal or financial advice and who is or who represents to the volunteer firefighter relief association that the person is:

- (1) an actuary;
- (2) a licensed public accountant or a certified public accountant;
- (3) an attorney;
- (4) an investment advisor or manager, or an investment counselor;
- (5) an investment advisor or manager selection consultant;
- (6) a pension benefit design advisor or consultant; or
- (7) any other financial consultant.

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

Sec. 39. Minnesota Statutes 2008, section 424A.05, subdivision 1, is amended to read:

Subdivision 1. **Establishment of special fund.** Every volunteer firefighters' relief association shall establish and maintain a special fund within the relief association.

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

Sec. 40. Minnesota Statutes 2008, section 424A.05, subdivision 2, is amended to read:

Subd. 2. **Special fund assets and revenues.** The special fund ~~shall~~ must be credited with all fire state aid moneys received ~~pursuant to~~ under sections 69.011 to 69.051, all taxes levied by or other revenues received from the municipality ~~pursuant to~~ under sections 69.771 to 69.776 or any applicable special law requiring municipal support for the relief association, any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the special fund and any interest or investment return earned upon the assets of the special fund. The treasurer of the relief association ~~shall be~~ is the custodian of the assets of the special fund and ~~shall~~ must be the recipient on behalf of the special fund of all revenues payable to the special fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund. These records and the bylaws of the relief association ~~shall be~~ are

public and ~~shall~~ must be open for inspection by any member of the relief association, any officer or employee of the state or of the municipality, or any member of the public, at reasonable times and places.

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

Sec. 41. Minnesota Statutes 2008, section 424A.05, subdivision 3, is amended to read:

Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements from the special fund ~~are~~ may not permitted to be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;

(2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid ~~pursuant to~~ under law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if no survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid ~~pursuant to~~ under law and specified in amount in the bylaws governing the relief association;

(4) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association, ~~and to the Minnesota Area Relief Association Coalition, and to the state Volunteer Firefighters Benefit Association~~ in order to entitle relief association members to membership in and the benefits of these associations or organizations; ~~and~~

(5) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

~~(5)~~ (6) for the payment of administrative expenses of the relief association as authorized under section 69.80.

(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump-sum volunteer fire relief association, or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.

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

Sec. 42. Minnesota Statutes 2008, section 424A.05, subdivision 4, is amended to read:

Subd. 4. **Investments of assets of the special fund.** The assets of the special fund ~~shall~~ must be invested only in securities authorized by section 69.775.

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

Sec. 43. Minnesota Statutes 2008, section 424A.06, is amended to read:

424A.06 RELIEF ASSOCIATION GENERAL FUND.

Subdivision 1. **Establishment of general fund.** Any A volunteer firefighters' relief association may establish and maintain a general fund within the relief association.

Subd. 2. **General fund assets and revenues.** To the general fund, if established, ~~shall~~ must be credited all moneys received from dues, fines, initiation fees, entertainment revenues and any moneys or property donated, given, granted or devised by any person, for unspecified uses. The treasurer of the relief association ~~shall be~~ is the custodian of the assets of the general fund and ~~shall~~ must be the recipient on behalf of the general fund of all revenues payable to the general fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the general fund. These records ~~shall~~ must be open for inspection by any member of the relief association at reasonable times and places.

Subd. 3. **Authorized disbursements from the general fund.** Disbursements from the general fund may be made for any purpose that is authorized by either the articles of incorporation or bylaws of the relief association.

Subd. 4. **Investment of assets of the general fund.** The assets of the general fund may be invested in any securities that are authorized by the bylaws of the relief association and may be certified for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.

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

Sec. 44. Minnesota Statutes 2008, section 424A.07, is amended to read:

424A.07 NONPROFIT FIREFIGHTING CORPORATIONS; ESTABLISHMENT OF RELIEF ASSOCIATIONS.

~~Prior to~~ Before paying any service pensions or retirement benefits ~~pursuant to~~ under section 424A.02 or before becoming entitled to receive any amounts of fire state aid upon transmittal from a contracting municipality ~~pursuant to~~ under section 69.031, subdivision 5, a nonprofit firefighting corporation shall establish a volunteer firefighters' relief association governed by this chapter.

Sec. 45. Minnesota Statutes 2008, section 424A.08, is amended to read:

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

(a) Any qualified municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department and which has no full-time firefighters with retirement coverage by the public employees police and fire retirement plan shall deposit the fire state aid in a special account established for that purpose in the municipal treasury. Disbursement from the special account ~~shall~~ may not be made for any purpose except:

(1) payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the state Volunteer Firefighters' Benefit Association in order to entitle its

firefighters to membership in and the benefits of these state associations;

(2) payment of the cost of purchasing and maintaining needed equipment for the fire department; and

(3) payment of the cost ~~for~~ of construction, acquisition, repair and, or maintenance of buildings or other premises to house the equipment of the fire department.

(b) A qualified municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

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

Sec. 46. Minnesota Statutes 2008, section 424A.10, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section:

(1) "qualified recipient" means an individual who receives a lump-sum distribution of pension or retirement benefits from a volunteer firefighters' relief association for service that the individual has performed as a volunteer firefighter;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the ~~legally married~~ surviving spouse of a deceased active or deferred volunteer firefighter under section 424A.001, subdivision 6, or, if none, the surviving minor child or minor children of a deceased active or deferred volunteer firefighter;

(3) "active volunteer firefighter" means a person who regularly renders fire suppression service for a municipal fire department or an independent nonprofit firefighting corporation, who has met the statutory and other requirements for relief association membership, and who ~~has been~~ is deemed by the relief association under law and its bylaws to be a fully qualified member of the relief association for at least one month; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who terminated active firefighting service, has sufficient service credit from the applicable relief association to be entitled to a service pension under the bylaws of the relief association, but has not applied for or has not received the service pension.

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

Sec. 47. Minnesota Statutes 2008, section 424A.10, subdivision 2, is amended to read:

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer firefighters' relief association of a lump-sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association must pay the supplemental benefit out of its special fund. ~~The amount of~~ This benefit equals is an amount equal to ten percent of the regular lump-sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000. A supplemental benefit under this paragraph may not be paid to a survivor

of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association of a lump-sum survivor benefit ~~or funeral benefit~~ to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association if its articles of incorporation or bylaws so provide. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit ~~or funeral benefit~~, but not to exceed \$2,000.

(c) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer firefighter benefit.

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

Sec. 48. Minnesota Statutes 2008, section 424A.10, subdivision 3, is amended to read:

Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the volunteer firefighters' relief association must shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid by the relief association to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

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

Sec. 49. Minnesota Statutes 2008, section 424A.10, subdivision 4, is amended to read:

Subd. 4. **In lieu of income tax exclusion.** (a) The supplemental benefit provided by this section is in lieu of the state income tax exclusion for lump-sum distributions of retirement benefits paid to volunteer firefighters.

(b) If the law is modified to exclude or exempt volunteer firefighters' lump-sum distributions from state income taxation, the supplemental benefits under this section ~~may~~ are no longer be paid payable, beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump-sum distribution under section

290.032 or 290.0802.

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

Sec. 50. Minnesota Statutes 2008, section 424A.10, subdivision 5, is amended to read:

Subd. 5. **Retroactive reimbursement in certain instances.** A supplemental survivor ~~or funeral~~ benefit may be paid by a relief association for the death of an active volunteer firefighter or of a deferred volunteer firefighter that occurred on or after August 1, 2005, if the relief association articles of incorporation or bylaws ~~so~~ provide for a supplemental survivor benefit and provide for retroactivity.

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

Sec. 51. Minnesota Statutes 2008, section 424B.10, is amended by adding a subdivision to read:

Subd. 1a. **Applicability.** This section applies when all of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b.

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

Sec. 52. Minnesota Statutes 2008, section 424B.10, is amended by adding a subdivision to read:

Subd. 1b. **Benefits.** (a) The successor relief association following the consolidation of two or more defined benefit relief associations must be a defined benefit relief association.

(b) Notwithstanding any provision of section 424A.02, subdivision 3, to the contrary, the initial service pension amount of the subsequent defined benefit relief association as of the effective date of consolidation is either the service pension amount specified in clause (1) or the service pension amounts specified in clause (2), as provided for in the consolidated relief association's articles of incorporation or bylaws:

(1) the highest dollar amount service pension amount of any prior volunteer firefighters relief association in effect immediately before the consolidation initiation if the pension amount was implemented consistent with section 424A.02; or

(2) for service rendered by each individual volunteer firefighter before consolidation, the service pension amount under the consolidating volunteer firefighters relief association that the firefighter belonged to immediately before the consolidation if the pension amount was implemented consistent with section 424A.02 and for service rendered after the effective date of the consolidation, the highest dollar amount service pension of any of the consolidating volunteer firefighters relief associations in effect immediately before the consolidation if the pension amount was implemented consistent with section 424A.02.

(c) Any increase in the service pension amount beyond the amount implemented under paragraph (a) must conform with the requirements and limitations of sections 69.771 to 69.775 and section 424A.02.

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

Sec. 53. Minnesota Statutes 2008, section 424B.10, subdivision 2, is amended to read:

Subd. 2. **Funding.** (a) Unless the applicable municipalities agree in writing to allocate the minimum municipal obligation in a different manner, the minimum municipal obligation under section 69.772 or 69.773, whichever applies, must be allocated between the applicable municipalities in proportion to their fire state aid.

(b) If any applicable municipality fails to meet its portion of the minimum municipal obligation to the subsequent relief association, all other applicable municipalities are jointly obligated to provide the required funding upon certification by the relief association secretary. An applicable municipality that pays the minimum municipal obligation amount for another applicable municipality, the municipality may collect ~~the~~ that payment amount, plus a 25 percent surcharge, from the responsible applicable municipality by any available means, including a deduction from any state aid or payment amount payable to the responsible municipality upon certification of the necessary information to the commissioner of finance.

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

Sec. 54. [424B.11] CONSOLIDATING DEFINED CONTRIBUTION RELIEF ASSOCIATIONS; INDIVIDUAL ACCOUNTS; FUNDING.

Subdivision 1. **Applicability.** This section applies when all of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Individual accounts.** The successor relief association following the consolidation of two or more defined contribution relief associations must be a defined contribution relief association and the successor relief association board shall establish individual accounts for every active member, inactive member, deferred member, or retired member receiving installment payments with that status as of the consolidation date. To each individual account the successor relief association must credit the amount to the credit of each person by a predecessor relief association as of the date of consolidation plus a proportional share, based on account value, of any subsequent net revenue during the consolidation process.

Subd. 3. **Funding.** Unless the articles of incorporation or bylaws of the successor relief association specify that municipal contributions are wholly voluntary or unless the municipalities associated with the consolidating defined contribution relief associations agree in writing to a different municipal support arrangement, each municipality must continue to provide the same amount of municipal support to the successor relief association as the municipality provided to the applicable predecessor relief association in the calendar year immediately prior to the calendar year in which the consolidation occurs.

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

Sec. 55. [424B.12] MIXED CONSOLIDATING RELIEF ASSOCIATIONS; BENEFIT PLAN; FUNDING.

Subdivision 1. **Applicability.** This section applies where one or more of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b, and one or more of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Benefit plan.** The articles of incorporation or bylaws of the successor relief association must specify whether the relief association is a defined benefit relief association or whether the relief association is a defined contribution relief association. If the successor relief association is a defined benefit relief association, the relief association benefits must comply with sections 424A.02 and 424B.11, subdivision 1a. If the successor relief association is a defined contribution relief association, the relief association must comply with sections 424A.016 and 424B.12, subdivision 2.

Subd. 3. **Funding.** If the successor relief association is a defined benefit relief association, the relief association funding is governed by section 424B.11, subdivision 2. If the successor relief association is a defined contribution relief association, the relief association funding is governed by section 424B.12, subdivision 3.

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

Sec. 56. Minnesota Statutes 2008, section 424B.21, is amended to read:

424B.21 ANNUITY PURCHASES UPON DISSOLUTION.

The board of trustees of a volunteer firefighters relief association that is scheduled for dissolution may purchase annuity contracts under section ~~424A.02~~ 424A.015, subdivision ~~8a~~ 3, instead of transferring special fund assets to a municipal trust fund under section 424B.20, subdivision 4. Payment of an annuity for which a contract is purchased may not commence before the retirement age specified in the relief association bylaws and in compliance with section 424A.016, subdivision 2, or 424A.02, subdivision 1. Legal title to the annuity contract transfers to the municipal trust fund under section 424B.20, subdivision 4.

EFFECTIVE DATE. This section is effective July 1, 2009, if article 1 is also enacted.

Sec. 57. BRIMSON FIREFIGHTERS RELIEF ASSOCIATION; BOARD OF TRUSTEES MEMBERSHIP.

Notwithstanding any provisions of Minnesota Statutes, section 424A.04, or other law to the contrary, the Brimson Firefighters Relief Association must be managed by a board of trustees consisting of ten members, with six trustees elected from the membership of the relief association, one trustee drawn from the officials of each municipality served by the fire department to which the relief association is directly associated, and one trustee who is the fire chief serving with the independent nonprofit firefighting corporation.

EFFECTIVE DATE. This section is effective the day after the governing body of the Fairbanks Township and its chief clerical officer timely comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 58. REPEALER.

Subdivision 1. **Repealed for recodification.** Minnesota Statutes 2008, sections 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, and 8b; and 424B.10, subdivision 1, are repealed.

Subd. 2. **Repealed as obsolete.** Minnesota Statutes 2008, section 424A.09, is repealed.

Subd. 3. **Substantive repeal.** Minnesota Statutes 2008, section 424A.02, subdivision 9b, is repealed.

ARTICLE 12**CORRECTION OF PRIOR DRAFTING ERRORS**

Section 1. Minnesota Statutes 2008, section 354.66, subdivision 6, is amended to read:

Subd. 6. **Insurance.** A board of an employing district entering into an agreement authorized by this section shall take all steps necessary to assure continuance of any insurance programs furnished or authorized a full-time teacher on an identical basis and with identical sharing of costs for a part-time teacher pursuant to this section, provided, however, that the requirements of this sentence may be modified by a collective bargaining agreement between a board and an exclusive representative pursuant to chapter ~~179~~ 179A. Teachers as defined in section 136F.43 employed on a less than 75 percent time basis pursuant to this section shall be eligible for state paid insurance benefits as if the teachers were employed full time.

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

Sec. 2. Minnesota Statutes 2008, section 356.32, subdivision 2, is amended to read:

Subd. 2. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(3) the State Patrol retirement plan, established under chapter 352B;

(4) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353;

(5) the public employees police and fire plan of the Public Employees Retirement Association, established under chapter 353;

(6) the Teachers Retirement Association, established under chapter 354;

(7) the Minneapolis Employees Retirement Fund, established under chapter 422A;

(8) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and

~~(9) the Minneapolis Teachers Retirement Fund Association, established under chapter 354A;~~
and

~~(10)~~ (9) the St. Paul Teachers Retirement Fund Association, established under chapter 354A.

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

Sec. 3. Minnesota Statutes 2008, section 422A.06, subdivision 8, is amended to read:

Subd. 8. **Retirement benefit fund.** (a) The retirement benefit fund consists of amounts held for payment of retirement allowances for members retired under this chapter, including any transfer amount payable under subdivision 3, paragraph (c).

(b) Unless subdivision 3, paragraph (c), applies, assets equal to the required reserves for retirement allowances under this chapter determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained under section 356.214 must be transferred from the deposit accumulation fund to the retirement benefit fund as of the last business day of the month in which the retirement allowance begins. The income from investments of these assets must be allocated to this fund and any interest charge under subdivision 3, paragraph (c), must be credited to the fund. There must be paid from this fund the retirement annuities authorized by law. A required reserve calculation for the retirement benefit fund must be made by the actuary retained under section 356.214 and must be certified to the retirement board by the actuary retained under section 356.214.

(c) There is established a deferred yield adjustment account which must be increased by the sale or disposition of any debt securities at less than book value and must be decreased by the sale or disposition of debt securities at more than book value. At the end of each fiscal year, a portion of the balance of this account must be offset against the investment income for that year. The annual portion of the balance to be offset must be proportional to the reciprocal of the average remaining life of the bonds sold, unless the amounts are offset by gains on the future sales of these securities. The amount of this account must be included in the recognized value of assets other than corporate stocks and all other equity investments. In any fiscal year in which the gains on the sales of debt securities exceed the discounts realized on the sales of such securities, the excess must be used to reduce the balance of the account. If the realized capital gains are sufficient to reduce the balance of the account to zero, any excess gains must be available for the calculation of postretirement adjustments.

(d)(1) Annually, following June 30, the board shall use the procedures in clauses (2), (3), and (4), to determine whether a postretirement adjustment is payable and to determine the amount of any postretirement adjustment.

(2) If the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor increases from June 30 of the preceding year to June 30 of the current year, the board shall certify the percentage increase. The amount certified must not exceed ~~the lesser of the difference between the preretirement interest assumption and postretirement interest assumption in section 356.215, subdivision 8, paragraph (a), or 3.5 percent.~~

(3) In addition to any percentage increase certified under paragraph (b), the board shall use the following procedures to determine if a postretirement adjustment is payable under this paragraph:

(i) the board shall determine the market value of the fund on June 30 of that year;

(ii) the amount of reserves required as of the current June 30 for the annuity or benefit payable to an annuitant and benefit recipient must be determined by the actuary retained under section 356.214. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30 is eligible to receive a full postretirement adjustment. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment. The amount of the reserves for those annuitants and benefit recipients who are eligible to receive a full postretirement benefit adjustment is known as "eligible reserves." The amount of the reserves for those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible

to receive a partial postretirement adjustment, additional "eligible reserves" is an amount that bears the same ratio to the total reserves required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves are "noneligible reserves";

(iii) the board shall determine the percentage increase certified under clause (2) multiplied by the eligible required reserves, as adjusted for mortality gains and losses, determined under item (ii);

(iv) the board shall add the amount of reserves required for the annuities or benefits payable to annuitants and benefit recipients of the participating public pension plans or funds as of the current June 30 to the amount determined under item (iii);

(v) the board shall subtract the amount determined under item (iv) from the market value of the fund determined under item (i);

(vi) the board shall adjust the amount determined under item (v) by the cumulative current balance determined under item (viii) and any negative balance carried forward under item (ix);

(vii) a positive amount resulting from the calculations in items (i) to (vi) is the excess market value. A negative amount is the negative balance;

(viii) the board shall allocate one-fifth of the excess market value or one-fifth of the negative balance to each of five consecutive years, beginning with the fiscal year ending the current June 30; and

(ix) to calculate the postretirement adjustment under this paragraph based on investment performance for a fiscal year, the board shall add together all excess market value allocated to that year and subtract from the sum all negative balances allocated to that year. If this calculation results in a negative number, the entire negative balance must be carried forward and allocated to the next year. If the resulting amount is positive, a postretirement adjustment is payable under this paragraph. The board shall express a positive amount as a percentage of the total eligible required reserves certified to the board under item (ii).

(4) The board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(i) the total "eligible" required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive a full or partial postretirement adjustment as determined by item (ii) must be certified to the board by the actuary retained under section 356.214. The total "eligible" required reserves must be determined by the actuary retained under section 356.214 on the assumption that all annuitants and benefit recipients eligible to receive a full or partial postretirement adjustment will be alive on the January 1 in question; and

(ii) the board shall add the percentage certified under clause (2) to any positive percentage calculated under clause (3). The board shall not subtract from the percentage certified under paragraph (b) any negative amount calculated under clause (3). The sum of these percentages must be carried to five decimal places and must be certified as the full postretirement adjustment percentage.

(e) The board shall determine the amount of the postretirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the postretirement adjustment must

be calculated by applying the certified postretirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient eligible for a full adjustment.

The dollar amount of the partial postretirement adjustment payable to each annuitant or benefit recipient eligible for a partial adjustment must be calculated by first determining a partial percentage amount that bears the same ratio to the certified full adjustment percentage amount as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The partial percentage amount determined must then be applied to the amount of the monthly annuity or benefit payable to each annuitant or benefit recipient eligible to receive a partial postretirement adjustment. The postretirement adjustments are payable on January 1 following the calculations required under this section and must thereafter be included in the monthly annuity or benefit paid to the recipient. Any adjustments under this section must be paid automatically unless the intended recipient files a written notice with the applicable participating public pension fund or plan requesting that the adjustment not be paid.

(f) As of June 30 annually, the actuary retained under section 356.214 shall calculate the amount of required reserves representing any mortality gains and any mortality losses incurred during the fiscal year and report the results of those calculations to the plan. The actuary shall report separately the amount of the reserves for annuitants and benefit recipients who are eligible for a postretirement benefit adjustment and the amount of reserves for annuitants and benefit recipients who are not eligible for a postretirement benefit adjustment. If the net amount of required reserves represents a mortality gain, the board shall sell sufficient securities or transfer sufficient available cash to equal the amount. If the amount of required reserves represents a mortality loss, the plan shall transfer an amount equal to the amount of the net mortality loss. The amount of the transfers must be determined before any postretirement benefit adjustments have been made. All transfers resulting from mortality adjustments must be completed annually by December 31 for the preceding June 30. Interest is payable on any transfers after December 31 based upon the preretirement interest assumption for the participating plan or fund as specified in section 356.215, subdivision 8, stated as a monthly rate. Book values of the assets of the fund must be determined only after all adjustments for mortality gains and losses for the fiscal year have been made.

(g) All money necessary to meet the requirements of the certification of withdrawals and all money necessary to pay postretirement adjustments under this section are hereby and from time to time appropriated from the postretirement investment fund to the board.

(h) Annually, following the calculation of any postretirement adjustment payable from the retirement benefit fund, the board of trustees shall submit a report to the executive director of the Legislative Commission on Pensions and Retirement and to the commissioner of finance indicating the amount of any postretirement adjustment and the underlying calculations on which that postretirement adjustment amount is based, including the amount of dividends, the amount of interest, and the amount of net realized capital gains or losses utilized in the calculations.

(i) With respect to a former contributing member who began receiving a retirement annuity or disability benefit under section 422A.151, paragraph (a), clause (2), after June 30, 1997, or with respect to a survivor of a former contributing member who began receiving a survivor benefit under section 422A.151, paragraph (a), clause (2), after June 30, 1997, the reserves attributable to the one percent lower amount of the cost-of-living adjustment payable to those annuity or benefit recipients annually must be transferred back to the deposit accumulation fund to the credit

of the Metropolitan Airports Commission. The calculation of this annual reduced cost-of-living adjustment reserve transfer must be reviewed by the actuary retained under section 356.214.

EFFECTIVE DATE. This section is effective retroactively from June 30, 2008.

Sec. 4. Minnesota Statutes 2008, section 422A.08, subdivision 5, is amended to read:

Subd. 5. **Service credit purchase.** Any contributor who prior to entering the service of the city was an employee of a public corporation, is authorized, using the procedure in ~~subdivision 5a~~ section 356.551, to purchase allowable service credit in the retirement fund for employment by the public corporation in the same manner as though the service had been rendered to the city, providing that the individual has not received service credit and is not eligible to receive service credit for this period under any other plan or fund listed in section 356.30, subdivision 3. Before receiving credit for service rendered to a public corporation as herein set forth, the contributing employee shall make application therefor in writing to the retirement board, and shall contribute to the retirement fund the amount specified in ~~subdivision 5a~~ section 356.551.

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

Sec. 5. Laws 1989, chapter 319, article 11, section 13, is amended to read:

Sec. 13. **REPEALER.**

Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, ~~sections 2 and 5~~ section 245, are repealed.

EFFECTIVE DATE. This section is effective the day following final enactment and applies retroactively from June 2, 1989.

Sec. 6. Laws 2008, chapter 349, article 14, section 13, is amended to read:

Sec. 13. **REPEALER OF PRIOR INCONSISTENT SPECIAL VOLUNTEER FIRE RELIEF ASSOCIATION ANCILLARY BENEFIT LEGISLATION.**

Subdivision 1. **Anoka.** Laws 1969, chapter ~~352~~ 252, section 1, subdivisions 3, 4, 5, and 6, are repealed.

Subd. 2. **Butterfield.** Laws 1975, chapter 185, section 1, is repealed.

Subd. 3. **Coon Rapids.** Laws 1973, chapter 304, section 1, subdivisions 3, 4, 5, 6, 7, 8, and 9, are repealed.

Subd. 4. **Edina.** (1) Laws 1965, chapter 592, section 3, as ~~amended~~ added by Laws 1969, chapter 644, section 2, and amended by Laws 1975, chapter 229, section 2; (2) Laws 1965, chapter 592, section 4, as ~~amended~~ added by Laws 1969, chapter 644, section 2, and amended by Laws 1975, chapter 229, section 3, Laws 1985, chapter 261, section 37, and Laws 1991, chapter 125, section 1; (3) Laws 1985, chapter 261, section 37, as amended by Laws 1991, chapter 125, section 1; and (4) Laws 1991, chapter 125, section 1, are repealed.

Subd. 5. **Fairmont.** Laws 1967, chapter 575, sections 2, as amended by Laws 1979, chapter 201, section 23; 3; and 4, are repealed.

Subd. 6. **Falcon Heights.** Laws 1969, chapter 526, sections 3; 4; 5, as amended by Laws 1974,

chapter 208, section 2; and 7, as amended by Laws 1974, chapter 208, section 3, are repealed.

Subd. 7. **Golden Valley.** Laws 1971, chapter 140, sections 2, as amended by Laws 1973, chapter 30, section 2; 3, as amended by Laws 1973, chapter 30, section 3; 4, as amended by Laws 1973, chapter 30, section 4; and 5, as amended by Laws 1973, chapter 30, section 5; and Laws 1993, chapter 244, article 4, section 1, are repealed.

Subd. 8. **Wayzata.** Laws 1973, chapter 472, section 1, as amended by Laws 1976, chapter 272, section 1, and Laws 1979, chapter 201, section 33, is repealed.

Subd. 9. **White Bear Lake.** Laws 1971, chapter 214, ~~section 1, subdivisions~~ sections 1, 2, 3, 4, and 5, are repealed.

EFFECTIVE DATE; LOCAL APPROVAL. (a) Subdivision 1 is effective the day after the governing body of Anoka and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(b) Subdivision 2 is effective the day after the governing body of Butterfield and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(c) Subdivision 3 is effective the day after the governing body of Coon Rapids and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(d) Subdivision 4 is effective the day after the governing body of Edina and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(e) Subdivision 5 is effective the day after the governing body of Fairmont and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(f) Subdivision 6 is effective the day after the governing body of Falcon Heights and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(g) Subdivision 7 is effective the day after the governing body of Golden Valley and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(h) Subdivision 8 is effective the day after the governing body of Wayzata and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(i) Subdivision 9 is effective the day after the governing body of White Bear Lake and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

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

Sec. 7. **REPEALER.**

Minnesota Statutes 2008, sections 356.2165; and 422A.08, subdivision 5a, are repealed.

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

ARTICLE 13

ONE PERSON AND SMALL GROUP RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 2008, section 352.86, subdivision 1, is amended to read:

Subdivision 1. ~~**Eligibility; retirement annuity.** A person who is employed by~~ This section applies to any employee of the Department of Transportation in the civil service employment classification of aircraft pilot or chief pilot, who is covered for that employment by the general employee retirement plan of the system under section 352.01, subdivision 23, and who elects this elected before June 1, 2008, special retirement coverage under subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after reaching age 65 by a policy adopted by the commissioner of transportation, and this section by an irrevocable election on forms provided by the executive director.

Subd. 2. **Retirement annuity.** An eligible person under subdivision 1 who terminates employment as a state employee on or after age 62 but prior to normal retirement age is entitled, upon application, to a retirement annuity computed under section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1.

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

Sec. 2. Minnesota Statutes 2008, section 352.86, subdivision 1a, is amended to read:

Subd. ~~1a~~ 3. **Disability benefits.** An employee described in subdivision 1, who is less than 62 years of age and who becomes disabled and physically or mentally unfit to perform occupational duties due to injury, sickness, or other disability, and who is found disqualified for retention as chief pilot or pilot as a result of a physical examination required by applicable federal laws or regulations, is entitled upon application to disability benefits for a maximum of five years in the amount of may submit an application for disability benefits calculated under section 352.113, subdivision 3. In considering the disability benefit application, the executive director must use the disability standard specified in this subdivision rather than the total and permanent standard specified in section 352.113, subdivision 1. If disability benefits commence under section 352.113, subdivision 3, the appointing authority shall also provide payments from the state airports fund, totaling 75 percent of current monthly salary, to be paid by the appointing authority less the amount payable under section 352.113, subdivision 3. Payments from the state airports fund must be made for five years or until normal retirement age, whichever is earlier. Disability benefits must not continue after the employee reaches age 62. ~~These benefits are in lieu of all other state benefits for the disability, including, but not limited to, workers' compensation benefits.~~

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

Sec. 3. Minnesota Statutes 2008, section 352.86, subdivision 2, is amended to read:

Subd. ~~2~~ 4. **Additional contributions.** The special retirement annuity authorized by subdivision 1 shall be financed by An employee covered by this section must pay an additional employee contribution from the covered aircraft pilot or chief pilot of 1.6 percent and an employer

~~contribution from~~ of salary. The Department of Transportation must pay an additional employer contribution of 1.6 percent of salary. These contributions are in addition to the contributions required by section 352.04, subdivisions 2 and 3. They must be made in the manner provided for in section 352.04, subdivisions 4, 5, and 6.

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

Sec. 4. Minnesota Statutes 2008, section 353.01, subdivision 2, is amended to read:

Subd. 2. **Public employee.** "Public employee" means a governmental employee performing personal services for a governmental subdivision defined in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term includes the classes of persons described or listed in subdivision 2a. The term also includes persons who elect association membership under subdivision 2d, paragraph (a), and persons for whom the applicable governmental subdivision had elected association membership under subdivision 2d, paragraph (b). ~~The term also includes full-time employees of the Dakota County Agricultural Society.~~ The term excludes the classes of persons listed in subdivision 2b for purposes of membership in the association.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 5. Minnesota Statutes 2008, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) Public employees whose salary from employment in one or more positions within one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary is less than \$425 in a subsequent month, the employee retains membership eligibility. Eligible public employees shall participate as members of the association with retirement coverage by the public employees retirement plan or the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies, as a condition of their employment on the first day of employment unless they:

- (1) are specifically excluded under subdivision 2b;
- (2) do not exercise their option to elect retirement coverage in the association as provided in subdivision 2d, paragraph (a); or
- (3) are employees of the governmental subdivisions listed in subdivision 2d, paragraph (b), where the governmental subdivision has not elected to participate as a governmental subdivision covered by the association.

(b) A public employee who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) Public employees under paragraph (a) include:

(1) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(2) full-time employees of the Dakota County Agricultural Society; and

(3) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elect Public Employee Retirement Association general plan coverage under section 5.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 6. Minnesota Statutes 2008, section 353.01, subdivision 6, is amended to read:

Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department, unit or instrumentality of state or local government, or any public body established under state or local authority that has a governmental purpose, is under public control, is responsible for the employment and payment of the salaries of employees of the entity, and receives a major portion of its revenues from taxation, fees, assessments or from other public sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, charter schools formed under section 124D.10, service cooperatives exercising retirement plan participation under section 123A.21, subdivision 5, joint powers boards organized under section 471.59, subdivision 11, paragraph (a), family service collaboratives and children's mental health collaboratives organized under section 471.59, subdivision 11, paragraph (b) or (c), provided that the entities creating the collaboratives are governmental units that otherwise qualify for retirement plan membership, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Minnesota Inter-county Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the University of Minnesota with respect to police officers covered by the public employees police and fire retirement plan, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, the Dakota County Agricultural Society, ~~and~~ Hennepin Healthcare System, Inc., and the Minneapolis Firefighters Relief Association and Minneapolis Police Relief Association with respect to staff covered by the Public Employees Retirement Association general plan.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district; or the board of a family service collaborative or children's

mental health collaborative organized under sections 124D.23, 245.491 to 245.495, or 471.59, if that board is not controlled by representatives of governmental units.

(d) A nonprofit corporation governed by chapter 317A or organized under Internal Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a governmental subdivision unless the entity has obtained a written advisory opinion from the United States Department of Labor or a ruling from the Internal Revenue Service declaring the entity to be an instrumentality of the state so as to provide that any future contributions by the entity on behalf of its employees are contributions to a governmental plan within the meaning of Internal Revenue Code, section 414(d).

(e) A public body created by state or local authority may request membership on behalf of its employees by providing sufficient evidence that it meets the requirements in paragraph (a).

(f) An entity determined to be a governmental subdivision is subject to the reporting requirements of this chapter upon receipt of a written notice of eligibility from the association.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 7. PRIOR PENSION PLAN TERMINATION.

As of the effective date of this section, contributions to the defined contribution or defined benefit pension plan or plans which previously provided primary pension coverage for any individual who elects coverage by the general employees retirement plan of the Public Employee Retirement Association under section 5 must terminate and must not be resumed.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 8. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION; SERVICE CREDIT PURCHASE AUTHORIZATION.

(a) Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, unless the period to be purchased is credited as allowable service by another retirement plan covered by Minnesota Statutes, section 356.30, or would be ineligible for credit as allowable service under Minnesota Statutes, section 353.01, subdivision 16, if the service had been performed after the effective date of this section, an eligible person described in paragraph (b) may purchase allowable service credit under Minnesota Statutes, section 353.01, subdivision 16, from the general employees retirement plan of the Public Employees Retirement Association for the period specified in paragraph (c), by making the payment required under paragraph (d).

(b) An eligible person is a person who began employment as staff to the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association prior to the effective date of this section, and due to that employment became a member of the general employees retirement plan of the Public Employees Retirement Association on the effective date of this section.

(c) The period of prior service credit available for purchase is the period of employment with the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, whichever is applicable, which would be includable service under the Public Employees Retirement Association general plan if that service had been performed after the effective date rather than

before.

(d) Except as otherwise stated under this section, Minnesota Statutes, section 356.551, applies to this purchase.

(e) An eligible person may purchase allowable service credit for a portion of the eligible period, resulting in prorated service credit.

(f) The election to purchase prior service credit under this section must be made in writing and must be filed with the executive director of the Public Employees Retirement Association.

(g) This section expires one year after the effective date of this section.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 9. **ELECTION OF COVERAGE.**

(a) An individual who is an employee of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association on the effective date of this section, and who is not excluded under section 353.01, subdivision 2b, due to coverage by the relief association pension plan, may elect prospective coverage by the general employees retirement plan of the Public Employees Retirement Association under an election as specified in this section.

(b) An eligible individual under paragraph (a) may elect coverage by the general employees retirement plan of the Public Employees Retirement Association by making an election on a form provided by the Public Employees Retirement Association executive director. For an election to be valid, it must be made within 90 days of the effective date of this section and is irrevocable.

(c) The Public Employees Retirement Association must provide eligible individuals with information and counseling regarding the general employees retirement plan of the Public Employees Retirement Association and the implications of electing that coverage.

(d) If an eligible individual elects not to be covered by the general employees retirement plan of the Public Employees Retirement Association, or if no election is made, the prior coverage, if any, remains unchanged.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 10. **PERA-GENERAL; PURCHASE OF CREDIT FOR OMITTED CONTRIBUTION PERIOD.**

(a) An eligible person described in paragraph (b) is entitled, upon written application filed with the executive director of the Public Employees Retirement Association, to purchase service credit for the period of omitted contributions specified in paragraph (c) by paying the amount determined under paragraph (d). The employer of the eligible person shall pay the amount determined under paragraph (e) within 30 days of being notified by the Public Employees Retirement Association executive director that the eligible person made the person's payment.

(b) An eligible person is a person who:

(1) was born on December 16, 1946;

(2) was first employed by the city of Elizabeth, Minnesota, municipal liquor store on July 23, 2004;

(3) was first eligible for coverage by the general employees retirement plan of the Public Employees Retirement Association in September 2004;

(4) was not reported as a general employees retirement plan member by the city of Elizabeth, Minnesota, to the Public Employees Retirement Association until January 2005; and

(5) did not receive service credit under Minnesota Statutes, section 353.27, subdivision 12, paragraph (e), in a timely fashion.

(c) The period of purchasable service credit is that portion of the period September 1, 2004, until January 1, 2005, during which the eligible person was an included employee under Minnesota Statutes, section 353.01, subdivision 2a, and during which the required deductions from the compensation of the eligible employee were not made under Minnesota Statutes, section 353.27, subdivision 2.

(d) The member purchase amount is the amount of the omitted member contributions during the period of purchasable service credit, plus compound annual interest at the rate of 8.5 percent from October 15, 2004, to the date on which payment is made.

(e) The employer purchase amount is either the balance of the full actuarial value purchase payment amount determined under Minnesota Statutes, section 356.551, remaining after subtracting the amount under paragraph (d) or the amount of the employer and employer additional contributions under Minnesota Statutes, section 353.27, subdivisions 3 and 3a, plus compound annual interest at the rate of 8.5 percent from October 15, 2004, to the date on which payment is made, whichever is larger. If the employer fails to pay the employer purchase amount in a timely fashion, the executive director of the Public Employees Retirement Association shall certify the unpaid amount, plus monthly compound interest at the rate of 0.71 percent for the period, to the commissioners of finance and revenue, who shall deduct the unpaid amount from any state aid or state transfers that the employing unit is eligible to receive and shall transmit the amount to the Public Employees Retirement Association.

(f) Purchase authority under this section expires on July 1, 2010.

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

Sec. 11. PERA-GENERAL AND TRA; ANNUITY APPLICATION REVOCATION.

(a) An eligible person specified in paragraph (b) may elect to revoke retirement annuity applications as provided in paragraph (c). The election must be made in writing and must be filed with the executive director of the applicable retirement plan.

(b) An eligible person is a person who:

(1) was born in 1943;

(2) was employed as publications editor for St. Cloud State University for twenty years, ending in 1998, and was covered by virtue of that employment by the general state employees retirement

plan of the Minnesota State Retirement System;

(3) retired from the general state employees retirement plan of the Minnesota State Retirement System in 2007;

(4) was employed by the Underwood, Minnesota, municipal liquor store in early 2008, terminated that employment on April 18, 2008, applied for a retirement annuity from the general employee retirement plan of the Public Employees Retirement Association and from the Teachers Retirement Association under Minnesota Statutes, section 356.30, in April or May 2008, and was subsequently reemployed by the municipal liquor store on or about May 20, 2008; and

(5) was informed by the Public Employees Retirement Association of a retirement annuity overpayment of \$349.65 on July 22, 2008.

(c) If elected, the eligible person may revoke the person's application for a retirement annuity from the general employee retirement plan of the Public Employees Retirement Association, or revoke the person's application for a retirement annuity from the Teachers Retirement Association, or revoke the person's application for a retirement annuity from both retirement plans. If a retirement application is revoked, the person's retirement annuity ends, the entitlement of the person to a future retirement annuity is restored, and that future retirement annuity amount must be adjusted by subtracting the total value of the retirement annuity amounts received from that retirement plan from the actuarial present value of the eligible person's future annuity without adjustment, calculated based on the mortality table for retired lives of the applicable retirement plan and 8.5 percent interest rate assumption, and determining the adjusted annuity amount from the remaining actuarial present value amount using the same interest and mortality assumption.

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

Sec. 12. MSRS-GENERAL AND PERA-GENERAL; PLAN MEMBERSHIP EXCLUSION AND DEFERRED ANNUITY AUGMENTATION.

(a) A qualified person described in paragraph (b) may, upon written application filed with the executive director of the Public Employees Retirement Association, elect retroactive exclusion from coverage by the general employees retirement plan of the Public Employees Retirement Association for any period of teacher assistant service for Independent School District No. 623, Roseville, and qualification for deferred annuities augmentation for the retroactively excluded period.

(b) A qualified person is a person who:

(1) was born on January 17, 1951;

(2) was employed by Ramsey County from January 20, 1975, to June 22, 1999;

(3) was employed by the state of Minnesota from June 22, 1999, to April 4, 2006; and

(4) was employed by Independent School District No. 623, Roseville, as a teacher assistant following terminating state employment from December 13, 2007, to June 6, 2008.

(c) If the retroactive exclusion is elected, all member and employer contributions to the general employees retirement plan of the Public Employees Retirement Association made with respect to Independent School District No. 623, Roseville, teacher assistant employment must be refunded with interest under Minnesota Statutes, section 353.27, subdivision 7, and the qualified person is

entitled, if otherwise eligible, for deferred annuities augmentation from the general employees retirement plan of the Public Employees Retirement Association and from the general state employees retirement plan of the Minnesota State Retirement System for the period of retroactive exclusion.

(d) Authority to make the election under this section expires September 1, 2009.

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

Sec. 13. MSRS-GENERAL; EXCEPTION TO DISABILITY BENEFIT APPLICATION DEADLINE.

(a) Notwithstanding any provision of Minnesota Statutes, section 352.113, subdivision 4, paragraph (e), to the contrary, an eligible person described in paragraph (b) is entitled to file a disability benefit application with the general state employees retirement plan of the Minnesota State Retirement System and, if otherwise qualified under Minnesota Statutes, section 352.113, receive a disability benefit from the retirement plan.

(b) An eligible person is a person who:

(1) was born on March 8, 1966;

(2) was an employee of the Minnesota Veterans Home at Silver Bay, Minnesota;

(3) terminated state employment on July 25, 2007;

(4) attempted to apply for a disability benefit in February 2008;

(5) had a request to apply for a disability benefit denied by the executive director of the Minnesota State Retirement System on April 3, 2008;

(6) appealed the executive director's decision to the Minnesota State Retirement System board of directors on April 24, 2008; and

(7) had the appeal to the Minnesota State Retirement System board of directors denied on August 4, 2008.

(c) This section expires on June 1, 2010.

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

Sec. 14. MSRS-GENERAL; ALLOWABLE SERVICE CREDIT REVISION FOR JOB-SHARE EMPLOYEES.

(a) An eligible person as described in paragraph (b) is entitled to have any partial month allowable service credit in the general state employees retirement plan of the Minnesota State Retirement System for part-time employment as a job-share employee revised to be identical to allowable service credit for part-time state employment under Minnesota Statutes, section 352.01, subdivision 11, that was not rendered as a job-share employee.

(b) An eligible person:

(1) is an active member of the general state employees retirement plan or a retired member of the general state employees retirement plan;

(2) was employed in the demonstration job-sharing project under Laws 1980, chapter 572, or in the job-sharing program under Minnesota Statutes 1998, sections 43A.41 to 43A.46;

(3) was employed in the demonstration job-sharing project or in the job-sharing program for one-half of full time; and

(4) received partial month allowable service credit under Minnesota Statutes, section 352.01, subdivision 11.

(c) To have allowable service credit revised under this section, an eligible person shall provide the executive director of the Minnesota State Retirement System any relevant documentation that the executive director requests.

(d) If the eligible person is a retired member of the general state employees retirement plan, the person's retirement annuity must be recomputed based on the revised service credit under this section and the recomputed retirement annuity is payable on the first day of the month next following the effective date of this section.

(e) Nothing in this section may be interpreted to authorize the crediting of more than one year of allowable service during any 12-month period or to authorize the payment of any retroactive recomputed retirement annuity amounts.

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

Sec. 15. HENNEPIN COUNTY EMPLOYEE WAIVER OF SERVICE REQUIREMENT TO APPLY FOR DISABILITY.

(a) Notwithstanding Minnesota Statutes, section 353.33, subdivision 1, an eligible person specified in paragraph (b) is authorized to submit an application for disability benefits from the general employees retirement plan of the Public Employees Retirement Association.

(b) An eligible person is a person who:

(1) was born May 6, 1972;

(2) was employed by Independent School District No. 11, Anoka-Hennepin, from September 11, 1995, to August 6, 1996;

(3) was employed by Hennepin County from July 31, 2000, to December 30, 2004;

(4) was again employed by Hennepin County starting April 2, 2007, with the most recent employment position being a principal child support officer;

(5) has service credit with the Public Employees Retirement Association due to the employment under clauses (2), (3), and (4); and

(6) has had several leaves from Hennepin County employment of a medical-related nature.

(c) If an eligible person under paragraph (b) files a valid application, the executive director of the Public Employees Retirement Association shall determine whether that eligible person qualifies to receive a disability benefit under the laws and procedures applicable to the general employees retirement plan of the Public Employees Retirement Association.

(d) This section expires one year after the effective date of this section.

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

Sec. 16. **REPEALER.**

Minnesota Statutes 2008, section 352.86, subdivision 3, is repealed."

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d;

352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e."

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

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

S.F. No. 1257: A bill for an act relating to public finance; providing terms and conditions relating to issuance of obligations and financing of public improvements; modifying restrictions

on mail elections; amending Minnesota Statutes 2008, sections 204B.46; 360.036, subdivision 2; 366.095, subdivision 1; 373.01, subdivision 3; 373.40, subdivision 1; 373.47, subdivision 1; 375.18, subdivision 3; 383B.117, subdivision 2; 410.32; 412.301; 428A.02, subdivision 1; 428A.03, subdivision 1; 428A.08; 428A.09; 428A.10; 469.005, subdivision 1; 469.034, subdivision 2; 469.040, subdivisions 1, 2, 4; 471.191, subdivision 1; 475.67, subdivision 8; repealing Minnesota Statutes 2008, sections 428A.101; 428A.21.

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

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

S.F. No. 1436: A bill for an act relating to human services; modifying provisions relating to the Minnesota sex offender program; creating additional oversight to the Minnesota sex offender program; creating a client grievance process; allowing access to the statewide supervision system; making changes to the vocational work program; requiring a report; imposing criminal penalties; amending Minnesota Statutes 2008, sections 16C.10, subdivision 5; 168.012, subdivision 1; 246B.01, by adding subdivisions; 246B.02; 246B.03; 246B.05; 246B.06; 609.485, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapter 246B.

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

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

S.F. No. 1481: A bill for an act relating to the budget reserve; modifying priorities for additional revenues in general fund forecasts; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 4A.01; 16A.103, subdivisions 1a, 1b, by adding a subdivision; 16A.11, subdivision 1, by adding a subdivision; 16A.152, subdivision 2, by adding a subdivision.

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

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

S.F. No. 1297: A bill for an act relating to state government; clarifying Minnesota Management and Budget oversight; establishing the management analysis revolving fund; appropriating money; amending Minnesota Statutes 2008, sections 13.64; 16A.055, by adding a subdivision; 16A.126; 16B.36, subdivision 1; 16B.48, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 43A.

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

Page 1, line 9, delete the new language and reinstate the stricken "OF"

Page 1, line 10, after the stricken "ADMINISTRATION" insert "FINANCE"

Page 1, line 12, delete the new language and reinstate the stricken language

Page 1, line 13, after the stricken "Administration" insert "Finance"

Page 1, line 17, delete "Minnesota Management and Budget" and insert "finance"

Page 2, delete section 3 and insert:

"Sec. 3. Minnesota Statutes 2008, section 16A.126, subdivision 1, is amended to read:

Subdivision 1. **Set rates.** The commissioner shall approve the rates an agency must pay to a revolving fund for services. Funds subject to this subdivision include, but are not limited to, the revolving funds established in sections 4A.05; 14.46; 14.53; 16B.48; 16B.54; 16B.58; 16B.85; 16C.03, subdivision 11; 16E.14; 43A.55; and 176.591; and the fund established in section 43A.30."

Page 2, delete section 4

Page 3, delete section 5

Page 4, line 17, delete "Minnesota Management"

Page 4, line 18, delete "and Budget" and after "Department" insert "of Finance"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "Minnesota Management and Budget"

Page 1, line 3, after "oversight" insert "responsibilities for the commissioner of finance"

Amend the title numbers accordingly

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

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

S.F. No. 1982: A bill for an act relating to veterans; requiring an interview for veterans listed as meeting minimum qualifications and claiming veterans preference for positions of state government employment; applying to state civil service certain removal provisions in current local government law; requiring a report of certain state employment statistics pertaining to veterans; amending Minnesota Statutes 2008, sections 43A.11, subdivision 7; 197.455, subdivision 1.

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

Page 1, line 15, before the first "veteran" insert "recently separated"

Page 1, after line 17, insert:

"The term "recently separated veteran" means a veteran, as defined in section 197.447, who has served in active military service, at any time on or after September 11, 2001, and who has been discharged under honorable conditions from active service, as shown by the person's form DD-214."

Page 1, line 21, before "This" insert "(a)"

Page 2, line 1, strike "Sections 197.46 to"

Page 2, line 2, strike "197.48 shall" and delete "also" and strike "apply to state civil service."

Page 2, after line 2, insert:

"(b) Sections 197.46 to 197.481 shall also apply to any veteran who is an incumbent in a classified appointment in the state civil service and has completed the probationary period for that position, as defined under section 43A.16. In matters of dismissal from such position, a qualified veteran has the irrevocable option of utilizing the procedures described in sections 197.46 to 197.481, or the procedures provided in the collective bargaining agreement applicable to the person, but not both. For a qualified veteran electing to use the procedures of sections 197.46 to 197.481, the matters governed by these sections shall not be considered grievances under a collective bargaining agreement, and if a veteran elects to appeal the dispute through these sections, the veteran shall be precluded from making an appeal under the grievance procedure of the collective bargaining agreement."

Page 2, line 7, delete "administration" and insert "finance"

Page 2, line 8, after the first "agency" insert ", with the exception of the Metropolitan Council," and delete "January 15, 2010" and insert "the second week of each legislative session, beginning in 2011"

Page 2, line 12, delete "on June 30, the end date of the designated fiscal year"

Page 2, delete lines 33 to 35 and insert:

"(b) The data must reflect one full fiscal year or one full calendar year, as determined by the commissioner of finance."

Page 3, line 1, delete "(2)" and insert "(c) For the purposes of this section,"

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

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

S.F. No. 1867: A bill for an act relating to state government; creating the Minnesota Geospatial Information Office; proposing coding for new law in Minnesota Statutes, chapter 16A; repealing Minnesota Statutes 2008, section 4A.05.

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

Page 4, delete lines 32 to 35 and insert "information officer shall provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over the policy and budget for the office. The report must address all statutes that refer to the land management information center or land management information system and provide any necessary draft legislation to implement any recommendations."

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

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

S.F. No. 702: A bill for an act relating to state employees; modifying the vacation donation program; amending Minnesota Statutes 2008, section 43A.1815.

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

Page 1, line 6, reinstate the stricken language

Page 1, line 8, delete "or sick"

Page 1, line 12, delete the new language

Page 1, delete lines 13 to 20 and insert:

"(b) The recipient employee must receive donations, as available, for a life-threatening condition of the employee or spouse or dependent child that prevents the employee from working. A recipient may use program donations retroactively to when all forms of paid leave are exhausted if the employee has sufficient donations to cover the period of retroactivity.

(c) An applicant for benefits under this section who receives an unfavorable determination may select a designee to consult with the commissioner or commissioner's designee on the reasons for the determination."

Page 1, line 21, delete ", in consultation with affected agencies and employee"

Page 1, line 22, delete "representatives,"

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

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

S.F. No. 1116: A bill for an act relating to game and fish; modifying refund provisions; modifying certain definitions; modifying publication requirements; modifying restrictions in migratory feeding and resting areas; providing certain exemptions from local law; modifying wild animal and fish taking, possession, and licensing requirements; authorizing certain fees; requiring rulemaking; amending Minnesota Statutes 2008, sections 17.4981; 17.4988, subdivision 3; 84.788, subdivision 11; 84.798, subdivision 10; 84.82, subdivision 11; 84.922, subdivision 12; 86B.415, subdivision 11; 97A.015, subdivision 39; 97A.051, subdivision 2; 97A.095, subdivision 2; 97A.137, by adding a subdivision; 97A.445, subdivision 1, by adding a subdivision; 97A.451, subdivision 3; 97A.475, subdivisions 3, 11, 12, 29; 97A.525, subdivision 1; 97B.041; 97B.086; 97B.111, subdivision 1; 97B.651; 97C.355, subdivision 2; repealing Minnesota Statutes 2008, sections 97A.525, subdivision 2; 97C.405; Laws 2008, chapter 368, article 2, section 25.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 17.4981, is amended to read:

17.4981 GENERAL CONDITIONS FOR REGULATION OF AQUATIC FARMS.

(a) Aquatic farms are licensed to culture private aquatic life. Cultured aquatic life is not wildlife. Aquatic farms must be licensed and given classifications to prevent or minimize impacts on natural resources. The purpose of sections 17.4981 to 17.4997 is to:

- (1) prevent public aquatic life from entering an aquatic farm;
- (2) prevent release of nonindigenous or exotic species into public waters without approval of the commissioner;
- (3) protect against release of disease pathogens to public waters;
- (4) protect existing natural aquatic habitats and the wildlife dependent on them; and
- (5) protect private aquatic life from unauthorized taking or harvest.

(b) Private aquatic life that is legally acquired and possessed is an article of interstate commerce and may be restricted only as necessary to protect state fish and water resources.

(c) The commissioner of natural resources shall establish license and other fees as provided in section 16A.1285, subdivision 2, that would make aquaculture licensing and enforcement self-sustaining. Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish the fees required by this section. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner shall develop best management practices for aquaculture to ensure the long-term sustainability of aquaculture and wetlands used for aquaculture, including, but not limited to, fish farming in man-made ponds.

Sec. 2. Minnesota Statutes 2008, section 17.4988, subdivision 3, is amended to read:

Subd. 3. **Inspection and additional fees.** Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish fees for the services listed in clauses (1) to (3) and the additional fee required under subdivision 2, paragraph (a). The fees must be set in an amount that does not recover significantly more or less than the cost of providing the service. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The services covered under this provision include:

- (1) initial inspection of each water to be licensed;
- (2) fish health inspection and certification, including initial tissue sample collection, basic fish health assessment, viral pathogen testing, and bacteriological testing; and
- (3) initial inspection for containment and quarantine facility inspections.

Sec. 3. Minnesota Statutes 2008, section 84.788, subdivision 11, is amended to read:

Subd. 11. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (e), or section 84.027, subdivision 15, paragraph

(a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration, the registration is not used or transferred, and:

(1) the off-highway motorcycle was registered incorrectly ~~by the commissioner or the deputy registrar~~; or

(2) the off-highway motorcycle was registered twice, once by the dealer and once by the customer.

Sec. 4. Minnesota Statutes 2008, section 84.798, subdivision 10, is amended to read:

Subd. 10. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (b), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration ~~and the vehicle was registered incorrectly by the commissioner or the deputy registrar~~, the registration is not used or transferred, and:

(1) the off-road vehicle was registered incorrectly; or

(2) the off-road vehicle was registered twice, once by the dealer and once by the customer.

Sec. 5. Minnesota Statutes 2008, section 84.82, subdivision 11, is amended to read:

Subd. 11. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration, the registration is not used or transferred, and:

(1) the snowmobile was registered incorrectly ~~by the commissioner or the deputy registrar~~; or

(2) the snowmobile was registered twice, once by the dealer and once by the customer.

Sec. 6. Minnesota Statutes 2008, section 84.922, subdivision 12, is amended to read:

Subd. 12. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration, the registration is not used or transferred, and:

(1) the vehicle was registered incorrectly ~~by the commissioner or the deputy registrar~~; or

(2) the vehicle was registered twice, once by the dealer and once by the customer.

Sec. 7. Minnesota Statutes 2008, section 86B.415, subdivision 11, is amended to read:

Subd. 11. **Refunds.** The commissioner may issue a refund on a license or title, not including any issuing fees paid under subdivision 8 or section 84.027, subdivision 15, paragraph (a), clause (3), or 86B.870, subdivision 1, paragraph (b), if the refund request is received within ~~12 months~~ 60 days of the original license or title, the license or title is not used or transferred, and:

(1) the watercraft was licensed or titled incorrectly ~~by the commissioner or the deputy registrar~~;

(2) the customer was incorrectly charged a title fee; or

(3) the watercraft was licensed or titled twice, once by the dealer and once by the customer.

Sec. 8. Minnesota Statutes 2008, section 97A.015, is amended by adding a subdivision to read:

Subd. 3b. **Bow fishing.** "Bow fishing" means taking rough fish by archery where the arrows are tethered or controlled by an attached line.

Sec. 9. Minnesota Statutes 2008, section 97A.051, subdivision 2, is amended to read:

Subd. 2. **Summary of fish and game laws.** (a) The commissioner shall prepare a summary of the hunting and fishing laws and rules and deliver a sufficient supply to ~~county auditors~~ license vendors to furnish one copy to each person obtaining a hunting, fishing, or trapping license.

(b) At the beginning of the summary, under the heading "Trespass," the commissioner shall summarize the trespass provisions under sections 97B.001 to 97B.945, state that conservation officers and peace officers must enforce the trespass laws, and state the penalties for trespassing.

(c) In the summary the commissioner shall, under the heading "Duty to Render Aid," summarize the requirements under section 609.662 and state the penalties for failure to render aid to a person injured by gunshot.

Sec. 10. Minnesota Statutes 2008, section 97A.095, subdivision 2, is amended to read:

Subd. 2. **Waterfowl feeding and resting areas.** The commissioner may, by rule, designate any part of a lake as a migratory feeding and resting area. Before designation, the commissioner must receive a petition signed by at least ten local resident licensed hunters describing the area of a lake that is a substantial feeding or resting area for migratory waterfowl, and find that the statements in the petition are correct, and that adequate, free public access to the lake exists near the designated area. The commissioner shall post the area as a migratory waterfowl feeding and resting area. Except as authorized in rules adopted by the commissioner, a person may not enter a posted migratory waterfowl feeding and resting area, during a period when hunting of migratory waterfowl is allowed, with watercraft or aircraft propelled by a motor, other than an electric motor of less than 30 pounds thrust with battery power of 12 volts or less. The commissioner may, by rule, further restrict the use of electric motors in migratory waterfowl feeding and resting areas.

Sec. 11. Minnesota Statutes 2008, section 97A.137, is amended by adding a subdivision to read:

Subd. 4. **Exemption from certain local ordinances.** (a) Wildlife management areas that are established according to section 86A.05, subdivision 8; designated under section 97A.133 or 97A.145; and 160 contiguous acres or larger are exempt from local ordinances that limit the use and management of the unit as authorized by state law.

(b) Wildlife management areas that are established according to section 86A.05, subdivision 8; designated under section 97A.133 or 97A.145; and at least 40 contiguous acres and less than 160 contiguous acres are exempt from local ordinances that:

(1) restrict trapping;

(2) restrict the discharge of archery equipment;

(3) restrict the discharge of shotguns with shot sizes of F or .22 inch diameter or smaller shot;

(4) restrict noise;

(5) require dogs on a leash; or

(6) would in any manner restrict the management of the unit as authorized by state law.

Sec. 12. Minnesota Statutes 2008, section 97A.331, subdivision 2, is amended to read:

Subd. 2. **Shining.** A person that violates section 97B.081, subdivision 1, relating to the use of an artificial light to locate wild animals ~~while in possession of a firearm, bow, or other implement capable of killing big game~~ is guilty of a gross misdemeanor.

Sec. 13. Minnesota Statutes 2008, section 97A.445, subdivision 1, is amended to read:

Subdivision 1. **Angling; Take a Kid Fishing Weekends.** A resident ~~over age 18~~ age 16 years or older may take fish by angling without an angling or fish house license during one three-day consecutive period of the open water angling season and one three-day consecutive period of the ice angling season designated by rule of the commissioner if accompanied by a child who is under age 16. The commissioner shall publicize the three-day periods as "Take a Kid Fishing Weekend" for the open water angling season and "Take a Kid Ice Fishing Weekend" for the ice angling season.

Sec. 14. Minnesota Statutes 2008, section 97A.445, is amended by adding a subdivision to read:

Subd. 1a. **Angling in a state park.** A resident may take fish by angling without an angling license when shore fishing or wading on state-owned land within a state park. When angling from a boat or float, this subdivision applies only to those water bodies completely encompassed within the statutory boundary of the state park. The exemption from an angling license does not apply to waters where a trout stamp is required.

Sec. 15. Minnesota Statutes 2008, section 97A.451, is amended by adding a subdivision to read:

Subd. 1a. **Angling; residents 90 years of age or older.** A resident who is 90 years of age or older may take fish without a license.

Sec. 16. Minnesota Statutes 2008, section 97A.451, subdivision 2, is amended to read:

Subd. 2. **Residents under age 16; fishing.** A resident under the age of 16 years may take fish without a license. A person authorized to issue licenses must issue a license to a resident under the age of 16 without a fee to net ciscoes and whitefish for personal consumption under section 97A.475, subdivision 13.

Sec. 17. Minnesota Statutes 2008, section 97A.465, subdivision 1b, is amended to read:

Subd. 1b. **Residents discharged from active service.** (a) A resident who has served at any time during the preceding 24 months in federal active service, as defined in section 190.05, subdivision 5c, outside the United States as a member of the National Guard, or as a reserve component or active duty member of the United States armed forces and has been discharged from active service may take small game and fish without a license if the resident possesses official military discharge papers. The resident must obtain the seals, tags, and coupons required of a licensee, which must be furnished without charge.

(b) The commissioner shall issue, without fee, a deer license and an either-sex deer permit to

a resident who has served at any time during the preceding 24 months in federal active service, as defined in section 190.05, subdivision 5c, outside the United States as a member of the National Guard, or as a reserve component or active duty member of the United States armed forces and has been discharged from active service. Eligibility under this paragraph is limited to one license and one permit per resident.

Sec. 18. Minnesota Statutes 2008, section 97A.465, subdivision 5, is amended to read:

Subd. 5. **Preference to service members.** (a) For purposes of this subdivision:

(1) "qualified service member or veteran" means a Minnesota resident who:

(i) is currently serving, or has served at any time during the past 24 months, in active service as a member of the United States armed forces, including the National Guard or other military reserves;

(ii) has received a Purple Heart medal for qualifying military service, as shown by official military records; or

(iii) has a service-connected disability rated at 70 percent or more as defined by the United States Veterans Administration; and

(2) "active service" means service defined under section 190.05, subdivision 5b or 5c.

(b) Notwithstanding any other provision of this chapter, chapter 97B or 97C, or administrative rules, the commissioner ~~may~~ shall give first preference to qualified service members or veterans in any drawing or lottery involving the selection of applicants for hunting or fishing licenses, permits, and special permits. This subdivision does not apply to licenses or permits for taking moose, elk, or prairie chickens. Actions of the commissioner under this subdivision are not rules under the Administrative Procedure Act and section 14.386 does not apply.

Sec. 19. Minnesota Statutes 2008, section 97A.473, subdivision 1, is amended to read:

Subdivision 1. **Resident lifetime licenses authorized.** (a) The commissioner may issue a lifetime angling license, a lifetime spearing license, a lifetime angling and spearing license, a lifetime small game hunting license, a lifetime firearm or archery deer hunting license, ~~or a lifetime sporting license or a lifetime sporting with spearing option license~~ to a person who is a resident of the state for at least one year or who is under age 21 and the child of a person who is a resident of the state for at least one year. The license fees paid for a lifetime license are nonrefundable.

(b) The commissioner may require the holder of a lifetime license issued under this section to notify the department each year that the license is used, by:

(1) telephone or Internet notification, as specified by the commissioner;

(2) the purchase of stamps for the license; or

(3) registration and tag issuance, in the case of the resident lifetime deer license.

Sec. 20. Minnesota Statutes 2008, section 97A.473, is amended by adding a subdivision to read:

Subd. 2a. **Lifetime spearing license; fee.** (a) A resident lifetime spearing license authorizes a person to take fish by spearing in the state. The license authorizes those activities authorized by the annual resident spearing license.

(b) The fees for a resident lifetime spearing license are:

- (1) age 3 and under, \$258;
- (2) age 4 to age 15, \$320;
- (3) age 16 to age 50, \$372; and
- (4) age 51 and over, \$173.

Sec. 21. Minnesota Statutes 2008, section 97A.473, is amended by adding a subdivision to read:

Subd. 2b. **Lifetime angling and spearing license; fee.** (a) A resident lifetime angling and spearing license authorizes a person to take fish by angling or spearing in the state. The license authorizes those activities authorized by the annual resident angling and spearing licenses.

(b) The fees for a resident lifetime angling and spearing license are:

- (1) age 3 and under, \$485;
- (2) age 4 to age 15, \$620;
- (3) age 16 to age 50, \$755; and
- (4) age 51 and over, \$376.

Sec. 22. Minnesota Statutes 2008, section 97A.473, is amended by adding a subdivision to read:

Subd. 5a. **Lifetime sporting with spearing option license; fee.** (a) A resident lifetime sporting with spearing option license authorizes a person to take fish by angling or spearing and hunt and trap small game in the state. The license authorizes those activities authorized by the annual resident angling, spearing, resident small game hunting, and resident trapping licenses. The license does not include a trout and salmon stamp validation, a turkey stamp validation, a walleye stamp validation, or any other hunting stamps required by law.

(b) The fees for a resident lifetime sporting license are:

- (1) age 3 and under, \$615;
- (2) age 4 to age 15, \$800;
- (3) age 16 to age 50, \$985; and
- (4) age 51 and over, \$586.

Sec. 23. Minnesota Statutes 2008, section 97A.4742, subdivision 1, is amended to read:

Subdivision 1. **Establishment; purpose.** The lifetime fish and wildlife trust fund is established as a fund in the state treasury. All money received from the issuance of lifetime angling, spearing, angling and spearing, small game hunting, deer hunting, and sporting, and sporting with spearing option licenses and earnings on the fund shall be credited to the lifetime fish and wildlife trust fund.

Sec. 24. Minnesota Statutes 2008, section 97A.475, subdivision 3, is amended to read:

Subd. 3. **Nonresident hunting.** (a) Fees for the following licenses, to be issued to nonresidents,

are:

- (1) for persons age 18 or over to take small game, \$73;
- (2) for persons age 18 or over to take deer with firearms during the regular firearms season, \$135;
- (3) for persons age 18 or over to take deer by archery, \$135;
- (4) for persons age 18 or over to take deer by muzzleloader during the muzzleloader season, \$135;
- (5) to take bear, \$195;
- (6) for persons age 18 and older to take turkey, \$78;
- (7) for persons under age 18 to take turkey, \$12;
- (8) to take raccoon or bobcat, \$155;
- (9) multizone license to take antlered deer in more than one zone, \$270;
- (10) to take Canada geese during a special season, \$4;
- (11) for persons under age 18 to take deer with firearms during the regular firearms season in any open season option or time period, \$13;
- (12) for persons under age 18 to take deer by archery, \$13; and
- (13) for persons under age 18 to take deer during the muzzleloader season, \$13.

(b) A \$5 surcharge shall be added to nonresident hunting licenses issued under paragraph (a), clauses (1) to (9). An additional commission may not be assessed on this surcharge.

Sec. 25. Minnesota Statutes 2008, section 97A.475, subdivision 7, is amended to read:

Subd. 7. **Nonresident fishing.** (a) Fees for the following licenses, to be issued to nonresidents, are:

- (1) to take fish by angling, \$37.50;
- (2) to take fish by angling limited to seven consecutive days selected by the licensee, \$26.50;
- (3) to take fish by angling for a 72-hour period selected by the licensee, \$22;
- (4) to take fish by angling for a combined license for a family for one or both parents and dependent children under the age of 16, \$50.50;
- (5) to take fish by angling for a 24-hour period selected by the licensee, \$8.50; ~~and~~
- (6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days selected by one of the licensees, \$38.50; and
- (7) to take fish by spearing from a dark house, \$37.50.

(b) A \$2 surcharge shall be added to all nonresident fishing licenses, except licenses issued under paragraph (a), clause (5). An additional commission may not be assessed on this surcharge.

Sec. 26. Minnesota Statutes 2008, section 97A.475, subdivision 11, is amended to read:

Subd. 11. **Fish houses ~~and~~, dark houses, and shelters; residents.** Fees for the following licenses are:

- (1) annual for a fish house ~~or~~, dark house, or shelter that is not rented, \$11.50;
- (2) annual for a fish house ~~or~~, dark house, or shelter that is rented, \$26;
- (3) three-year for a fish house ~~or~~, dark house, or shelter that is not rented, \$34.50; and
- (4) three-year for a fish house ~~or~~, dark house, or shelter that is rented, \$78.

Sec. 27. Minnesota Statutes 2008, section 97A.475, subdivision 12, is amended to read:

Subd. 12. **Fish houses and shelters; nonresident.** Fees for fish house and shelter licenses for a nonresident are:

- (1) annual, \$33;
- (2) seven consecutive days, \$19; and
- (3) three-year, \$99.

Sec. 28. Minnesota Statutes 2008, section 97A.475, subdivision 29, is amended to read:

Subd. 29. **Private fish hatcheries.** The fees for the following licenses to be issued to residents and nonresidents are:

- (1) for a private fish hatchery, with annual sales under \$200, \$70;
- (2) for a private fish hatchery, with annual sales of \$200 or more, \$210 for the base license. The commissioner must establish an additional fee based on the acreage of the operation. Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish the additional fee required by this subdivision. The fee is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply; and
- (3) to take sucker eggs from public waters for a private fish hatchery, \$400, plus \$6 for each quart in excess of 100 quarts.

Sec. 29. Minnesota Statutes 2008, section 97A.525, subdivision 1, is amended to read:

Subdivision 1. **Residents Generally.** ~~A resident person may transport wild animals within the state by common carrier without being in the vehicle if the resident person has the license required to take the animals and they are shipped to the resident person or to a licensed taxidermist, tanner, or fur buyer. The wild animals that may be transported by common carrier are:~~

- ~~(1) deer, bear, elk, and moose;~~
- ~~(2) undressed game birds; and~~
- ~~(3) fish.~~

Sec. 30. Minnesota Statutes 2008, section 97B.081, is amended to read:

97B.081 USING ARTIFICIAL LIGHTS TO LOCATE ANIMALS.

Subdivision 1. ~~With firearms and bows implements to take wild animals.~~ (a) Except as provided in subdivision 3, a person may not cast the rays of a spotlight, headlight, or other artificial light on a highway, or in a field, woodland, or forest, to spot, locate, or take a wild animal, except while taking raccoons in accordance with section 97B.621, subdivision 3, or tending traps in accordance with section 97B.931, while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to ~~kill~~ take big game, small game, or unprotected wild animals.

~~(b) This subdivision does not apply to a firearm that is:~~

~~(1) unloaded;~~

~~(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and~~

~~(3) in the closed trunk of a motor vehicle.~~

~~(c) This subdivision does not apply to a bow that is:~~

~~(1) completely encased or unstrung; and~~

~~(2) in the closed trunk of a motor vehicle.~~

~~(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.~~

~~(e) This subdivision does not apply to persons taking raccoons under section 97B.621, subdivision 3.~~

~~(f) This subdivision does not apply to a person hunting fox or coyote from January 1 to March 15 while using a handheld artificial light, provided that the person:~~

~~(1) is on foot;~~

~~(2) is using a shotgun;~~

~~(3) is not within a public road right-of-way;~~

~~(4) is using a handheld or electronic calling device; and~~

~~(5) is not within 200 feet of a motor vehicle.~~

Subd. 2. **Without firearms implements to take wild animals.** (a) ~~Between the hours of 10:00 p.m. and 6:00 a.m. from September 1 to December 31, Except as provided in subdivision 3, from two hours after sunset until sunrise, a person may not cast the rays of a spotlight, headlight, or other artificial light on a highway, or in a field, woodland, or forest to spot, or locate, or take a wild animal except to take raccoons under section 97B.621, subdivision 3, or to tend traps under section 97B.931.~~

~~(b) Between one-half hour after sunset until sunrise, Except as provided in subdivision 3, a person may not cast the rays of a spotlight, headlight, or other artificial light to spot, locate, or~~

~~take a wild animal on fenced, agricultural land containing livestock, as defined in section 17A.03, subdivision 5, or poultry that is marked with signs prohibiting the shining of lights. The signs must:~~

~~(1) display reflectorized letters that are at least two inches in height and state "no shining" or similar terms; and~~

~~(2) be placed at intervals of 1,000 feet or less along the boundary of the area.~~

~~(c) It is not a violation of paragraph (a) or (b) for a person to carry out any agricultural, occupational, or recreational practice, including snowmobiling that is not related to spotting, locating, or taking a wild animal.~~

~~(d) Between the hours of 6:00 p.m. and 6:00 a.m. (c) Except as provided in subdivision 3, a person may not project a spotlight or handheld cast an artificial light onto residential property or building sites from a moving motor vehicle being operated on land, except for the following purposes:~~

~~(1) safety;~~

~~(2) emergency response;~~

~~(3) normal vehicle operations; or~~

~~(4) performing an occupational duty.~~

~~(d) Except as provided in subdivision 3, a person may not at any time cast the rays of a spotlight, headlight, or other artificial light onto property posted with signs prohibiting the shining of lights onto the property. When signs are posted, the signs shall display letters that are at least two inches in height and state "no shining" or similar terms and shall be placed at intervals of 500 feet or less along the boundary of the property.~~

Subd. 3. **Exceptions.** (a) It is not a violation of this section for a person to:

(1) cast the rays of a spotlight, headlight, or other artificial light to take raccoons according to section 97B.621, subdivision 3, or tend traps according to section 97B.931;

(2) hunt fox or coyote from January 1 to March 15 while using a handheld artificial light, provided that the person is:

(i) on foot;

(ii) using a shotgun;

(iii) not within a public road right-of-way;

(iv) using a handheld or electronic calling device; and

(v) not within 200 feet of a motor vehicle; or

(3) cast the rays of a handheld artificial light to retrieve wounded or dead big game animals, provided that the person is:

(i) on foot; and

(ii) not in possession of a firearm or bow.

(b) It is not a violation of subdivision 2 for a person to cast the rays of a spotlight, headlight, or other artificial light to:

(1) carry out any agricultural, safety, emergency response, normal vehicle operation, or occupational-related activities that do not involve taking wild animals; or

(2) carry out outdoor recreation as defined in section 97B.001 that is not related to spotting, locating, or taking a wild animal.

Sec. 31. Minnesota Statutes 2008, section 97B.086, is amended to read:

97B.086 POSSESSION OF NIGHT VISION EQUIPMENT.

(a) A person may not possess night vision goggle equipment while taking wild animals or while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to take wild animals.

(b) This section does not apply to a firearm that is:

(1) unloaded;

(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and

(3) in the closed trunk of a motor vehicle.

(c) This section does not apply to a bow that is:

(1) completely encased or unstrung; and

(2) in the closed trunk of a motor vehicle.

(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.

(e) This section does not apply to night vision goggle equipment possessed by peace officers or military personnel while exercising their duties.

Sec. 32. Minnesota Statutes 2008, section 97B.111, subdivision 1, is amended to read:

Subdivision 1. **Establishment; requirements.** The commissioner may establish criteria, special seasons, and limits for persons who have a physical disability to take big game and small game with firearms and by archery in designated areas. A person hunting under this section who has a physical disability must have a verified statement of the disability by a licensed physician and must be participating in a program for physically disabled hunters sponsored by a nonprofit organization that is permitted under subdivision 2. Notwithstanding section 97B.055, subdivision 3, the commissioner may authorize hunt participants to shoot from a stationary motor vehicle. A license is not required for a person to assist a physically disabled person hunting during a special season under this section.

Sec. 33. Minnesota Statutes 2008, section 97B.328, subdivision 3, is amended to read:

Subd. 3. **Definition.** For purposes of this section, "bait or feed" includes grains, fruits, vegetables, nuts, hay, or other food that is capable of attracting or enticing deer and that has been placed by a person. Liquid scents, salt, and minerals, and bird feeders containing grains or nuts that are at least six feet above the ground are not bait or feed. Unharvested food resulting from normal or accepted farming, forest management, wildlife food plantings, orchard management, or other similar land management activities is not bait or feed.

Sec. 34. Minnesota Statutes 2008, section 97B.651, is amended to read:

97B.651 UNPROTECTED MAMMALS AND BIRDS.

Subdivision 1. **Taking unprotected mammals and birds.** Mammals that are unprotected wild animals and unprotected birds may be taken at any time and in any manner, except with artificial lights, or by using a motor vehicle in violation of section 97B.091. Poison may not be used to take unprotected mammals or unprotected birds unless the safety of humans and domestic livestock is ensured. Unprotected mammals and unprotected birds may be possessed, bought, sold, or transported in any quantity, except importation or exportation is restricted as provided in subdivision 2.

Subd. 2. **Importing and exporting live coyotes.** A person may not export a live coyote out of the state or import a live coyote into the state unless authorized under a permit from the commissioner.

Sec. 35. Minnesota Statutes 2008, section 97B.811, subdivision 2, is amended to read:

Subd. 2. **Hours for placing decoys.** Except as provided in subdivisions 3 and 4, a person may not place decoys in public waters or on public lands more than ~~one hour~~ two hours before lawful shooting hours for waterfowl.

Sec. 36. Minnesota Statutes 2008, section 97B.811, subdivision 3, is amended to read:

Subd. 3. **Restrictions on leaving decoys unattended.** During the open season for waterfowl, a person may not leave decoys in public waters between sunset and ~~one hour~~ two hours before lawful shooting hours or leave decoys unattended during other times for more than ~~four~~ three consecutive hours unless:

- (1) the decoys are in waters adjacent to private land under the control of the hunter; and
- (2) there is not natural vegetation growing in water sufficient to partially conceal a hunter.

Sec. 37. Minnesota Statutes 2008, section 97C.081, subdivision 2, is amended to read:

Subd. 2. **Contests without a permit.** A person may conduct a fishing contest without a permit from the commissioner provided:

- (1) the following criteria are met:
 - (i) there are ~~30 participants~~ 25 boats or less for open water contests and 150 participants or less for ice fishing contests;
 - (ii) the entry fee is \$25 per person or less;
 - (iii) the total prize value is \$25,000 or less; and

- (iv) the contest is not limited to trout species only;
- (2) the following criteria are met:
 - (i) the contest is not limited to specifically named waters; and
 - (ii) the contest is not limited to trout species only; ~~or~~
- (3) all the contest participants are age 18 years or under;
- (4) the contest is limited to rough fish; or
- (5) the total prize value is \$500 or less.

Sec. 38. Minnesota Statutes 2008, section 97C.081, subdivision 3, is amended to read:

Subd. 3. **Contests requiring a permit.** (a) A person must have a permit from the commissioner to conduct a fishing contest that does not meet the criteria in subdivision 2. The commissioner shall charge a fee for the permit that recovers the costs of issuing the permit and of monitoring the activities allowed by the permit. ~~The commissioner may waive the fee under this subdivision for a charitable organization.~~ Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish contest permit fees. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(b) If entry fees are over \$25 per person, or total prizes are valued at more than \$25,000, and if the applicant has either:

(1) not previously conducted a fishing contest requiring a permit under this subdivision; or

(2) ever failed to make required prize awards in a fishing contest conducted by the applicant, the commissioner may require the applicant to furnish the commissioner evidence of financial responsibility in the form of a surety bond or bank letter of credit in the amount of \$25,000.

(c) The permit fee for any individual contest may not exceed the following amounts:

(1) ~~\$120~~ \$60 for an open water contest not exceeding ~~100 participants~~ 50 boats and without off-site weigh-in;

(2) ~~\$400~~ \$200 for an open water contest with more than ~~100 participants~~ 50 boats and without off-site weigh-in;

(3) ~~\$500~~ \$250 for an open water contest not exceeding ~~100 participants~~ 50 boats with off-site weigh-in;

(4) ~~\$1,000~~ \$500 for an open water contest with more than ~~100 participants~~ 50 boats with off-site weigh-in; or

(5) \$120 for an ice fishing contest with more than 150 participants.

Sec. 39. Minnesota Statutes 2008, section 97C.081, subdivision 4, is amended to read:

Subd. 4. **Restrictions.** (a) The commissioner may by rule establish restrictions on fishing contests to protect fish and fish habitat, to restrict activities during high use periods, to restrict activities that affect research or management work, to restrict the number of boats, and for the

safety of contest participants.

(b) By March 1, 2011, the commissioner shall develop a best practices certification program for fishing contest organizers to ensure the proper handling and release of fish.

Sec. 40. Minnesota Statutes 2008, section 97C.081, subdivision 6, is amended to read:

Subd. 6. **Permit application process.** (a) Beginning August 1 each year, the commissioner shall accept permit applications for fishing contests to be held in the following year.

(b) If the number of permit applications received by the commissioner from August 1 through the last Friday in September exceeds the limits specified in subdivisions 7 and 8, the commissioner shall notify the affected applicants that their requested locations and time period are subject to a drawing. After notification, the commissioner shall allow the affected applicants a minimum of seven days to change the location or time period requested on their applications, provided that the change is not to a location or time period for which applications are already at or above the limits specified in subdivisions 7 and 8.

(c) After the applicants have been given at least seven days to change their applications, the commissioner shall conduct a drawing for all locations and time periods for which applications exceed limits. First preference in the drawings shall be given to applicants for established or traditional fishing contests, and second preference to applicants for contests that are not established as traditional fishing contests based on the number of times they have been unsuccessful in previous drawings. Except for applicants of established or traditional fishing contests, an applicant who is successful in a drawing loses all accumulated preference. "Established or traditional fishing contest" means a fishing contest that was issued permits in 1999 and 2000 or was issued permits four out of five years from 1996 to 2000 for the same lake and time period. Beginning with 2001, established or traditional fishing contests must continue to be conducted at least four out of five years for the same lake and time period to remain established or traditional.

(d) The commissioner has until November 7 to approve or deny permit applications that are submitted by 4:30 p.m. on the last Friday in September. The commissioner may approve a permit application that is received after 4:30 p.m. on the last Friday in September if approving the application would not result in exceeding the limits in subdivisions 7 and 8.

(e) The commissioner shall develop an online Web-based fishing contest permit application process.

Sec. 41. Minnesota Statutes 2008, section 97C.081, subdivision 9, is amended to read:

Subd. 9. **Permit restrictions.** (a) The commissioner may require fishing contest permittees to limit pre-fishing to week days only as a condition of a fishing contest permit. The commissioner may require proof from permittees that pre-fishing restrictions on the permit are communicated to fishing contest participants and enforced.

(b) The commissioner may require permit restrictions on the hours that a permitted fishing contest is conducted, including, but not limited to, starting and ending times.

(c) The commissioner may require permit restrictions on the number of parking spaces that may be used on a state-owned public water access site. The commissioner may require proof from permittees that parking restrictions on the permit are communicated to fishing contest participants

and enforced.

(d) To prevent undue mortality of released fish, the commissioner may require restrictions for off-site weigh-ins and live releases on a fishing contest permit or may deny permits requesting an off-site weigh-in or live release. The commissioner may allow for live release weigh-ins at public accesses.

(e) A person may not transfer a fishing contest permit to another person.

(f) Failure to comply with fishing contest permit restrictions may be considered grounds for denial of future permit applications.

Sec. 42. Minnesota Statutes 2008, section 97C.335, is amended to read:

97C.335 USE OF ARTIFICIAL LIGHTS TO TAKE FISH PROHIBITED.

(a) A person may not use artificial lights to lure or attract fish or to see fish in the water while spearing, except that while angling or spearing, a person may:

- (1) affix a lighted artificial bait with hooks attached to the end of a fishing line; or
- (2) use a lighted decoy for spearing.

~~Any~~ (b) A battery that is used in lighted fishing lures ~~cannot~~ must not contain ~~any intentionally introduced~~ mercury.

(c) The restrictions in paragraph (a) do not apply to bow fishing.

Sec. 43. Minnesota Statutes 2008, section 97C.345, subdivision 2, is amended to read:

Subd. 2. **Possession.** (a) Except as specifically authorized, a person may not possess a spear, fish trap, net, dip net, seine, or other device capable of taking fish on or near any waters. Possession includes personal possession and in a vehicle.

(b) A person may possess spears, dip nets, ~~bows and arrows~~, and spear guns allowed under section 97C.381 on or near waters between sunrise and sunset from May 1 to the last Sunday in February, or as otherwise prescribed by the commissioner.

Sec. 44. Minnesota Statutes 2008, section 97C.371, is amended by adding a subdivision to read:

Subd. 5. **Nonresidents.** Nonresidents may spear from a fish house or dark house.

Sec. 45. Minnesota Statutes 2008, section 97C.375, is amended to read:

97C.375 TAKING ROUGH FISH BY SPEARING ~~OR ARCHERY.~~

A resident or nonresident may take rough fish by spearing ~~or archery~~ during the times, in waters, and in the manner prescribed by the commissioner.

Sec. 46. **[97C.376] BOW FISHING.**

Subdivision 1. **Season.** The bow fishing season for residents and nonresidents is from May 1 to the last Sunday in February at any time of the day.

Subd. 2. **Possession of bows and arrows.** A person may possess bows and arrows on or near

waters at any time from May 1 to the last Sunday in February. A person must take reasonable measures to retrieve arrows and wounded fish.

Subd. 3. **Nighttime restrictions on motors.** From sunset to sunrise, a person bow fishing with a gasoline-powered motor must use a four-stroke engine. The noise limits for total noise while bow fishing from sunset to sunrise shall not exceed a noise level of 65 decibels on the A scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances as specified by the commissioner in a pass-by test or 67 decibels on the A scale measured at idle in a stationary test at least four feet above the water and at least four feet behind the transom of the motorboat being tested. The noise levels under section 86B.321 apply to persons traveling to and from bow fishing sites from sunset to sunrise.

Subd. 4. **Discharge ordinances; Mississippi and Minnesota Rivers.** Notwithstanding any law, rule, or local ordinance to the contrary, a person may discharge an arrow while bow fishing in the Mississippi and Minnesota Rivers.

Subd. 5. **Nighttime structure and campground setback requirements.** A person shall not discharge an arrow while bow fishing within 150 feet of an occupied structure or within 300 feet of a campsite from sunset to sunrise.

Subd. 6. **Prohibition on returning rough fish to waters.** Rough fish taken by bow fishing shall not be returned to the water and rough fish may not be left on the banks of any water of the state.

Sec. 47. **RULEMAKING.**

(a) The commissioner of natural resources shall adopt or amend rules to establish minimum size limits for muskellunge on inland waters consistent with the provisions of this section. The commissioner must:

(1) establish a 48-inch statewide minimum size restriction for muskellunge and muskellunge-northern pike hybrids in inland waters, except for the lakes listed in clause (2) that are managed specifically for muskellunge-northern pike hybrids in Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties; and

(2) establish a 40-inch minimum size restriction for muskellunge-northern pike hybrids in the following lakes in Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties:

<u>LAKE</u>	<u>COUNTY</u>
<u>Bryant</u>	<u>Hennepin</u>
<u>Bush</u>	<u>Hennepin</u>
<u>Calhoun</u>	<u>Hennepin</u>
<u>Cedar</u>	<u>Hennepin</u>
<u>Cedar</u>	<u>Scott</u>
<u>Clear</u>	<u>Washington</u>
<u>Crystal</u>	<u>Dakota</u>
<u>Crystal</u>	<u>Hennepin</u>

<u>Eagle</u>	<u>Carver</u>
<u>Elmo</u>	<u>Washington</u>
<u>Gervais</u>	<u>Ramsey</u>
<u>Island</u>	<u>Ramsey</u>
<u>Isles</u>	<u>Hennepin</u>
<u>Johanna</u>	<u>Ramsey</u>
<u>Nokomis</u>	<u>Hennepin</u>
<u>Orchard</u>	<u>Dakota</u>
<u>Phalen</u>	<u>Ramsey</u>
<u>Pierson</u>	<u>Carver</u>
<u>Silver</u>	<u>Ramsey</u>
<u>Wasserman</u>	<u>Carver</u>
<u>Weaver</u>	<u>Hennepin</u>

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt the rules. Minnesota Statutes, section 14.386, does not apply except as provided in Minnesota Statutes, section 14.388.

Sec. 48. TEMPORARY WARNING REQUIREMENTS; SHINING WITHOUT IMPLEMENTS TO TAKE WILD ANIMALS.

A violation prior to August 1, 2010, of Minnesota Statutes, section 97B.081, subdivision 2, shall not result in a penalty, but is punishable only by a warning.

Sec. 49. ZONE 3 DEER SEASON AND RESTRICTIONS; 2009.

For the 2009 deer season, notwithstanding rules of the commissioner of natural resources under Minnesota Statutes, section 97B.311, paragraph (a), the commissioner shall allow a nine-day early A season in Zone 3 beginning the Saturday nearest November 6 and a nine-day late B season in Zone 3 beginning the Saturday nearest November 20. During the last two days of the 2009 early A season, a person must take only antlered deer with at least two points, unless the person has taken an antlerless deer prior to taking the antlered deer during the early A season in Zone 3. Party hunting for antlered deer under Minnesota Statutes, section 97B.301, subdivision 3, is not allowed in the last two days of the 2009 early A season in Zone 3. Zone 3 is defined in Minnesota Rules, part 6232.1400, subpart 3.

Sec. 50. REPEALER.

Minnesota Statutes 2008, sections 97A.525, subdivision 2; and 97C.405, are repealed.

Amend the title as follows:

Page 1, line 6, after the first semicolon, insert "modifying certain fees; modifying restrictions and conforming penalties on shining artificial lights;"

Amend the title numbers accordingly

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

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

S.F. No. 1323: A bill for an act relating to environment; modifying Infectious Waste Control Act; amending Minnesota Statutes 2008, section 116.78, subdivision 4.

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

Page 1, line 8, delete the new language

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 1058: A bill for an act relating to employment; concerning certain purchases and acquisitions by public employers; concerning required work-related purchases for employees of public employers; establishing purchasing preferences; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Senator Metzen from the Committee on Business, Industry and Jobs, to which was referred

S.F. No. 910: A bill for an act relating to labor and employment; regulating trucking industry classifications of employment; amending Minnesota Statutes 2008, section 268.035, subdivision 25b.

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

Delete everything after the enacting clause and insert:

"Section 1. **[176.043] TRUCKING INDUSTRY; INDEPENDENT CONTRACTORS.**

In the trucking and messenger/courier industries, an operator of a vehicle that is licensed and registered as a truck, tractor, truck-tractor, or messenger/courier by a governmental motor vehicle regulatory agency is an employee unless each of the following factors are present, and if each factor is present, the operator is an independent contractor:

- (1) the individual owns the equipment or holds it under a bona fide lease arrangement;
- (2) the individual is responsible for the maintenance of the equipment;
- (3) the individual is responsible for the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses. The individual may be paid the carrier's fuel surcharge and incidental costs, including but not limited to, tolls, permits, and lumper fees;
- (4) the individual is responsible for supplying the necessary personal services to operate the

equipment;

(5) the individual's compensation is based on factors related to the work performed, such as a percentage of any schedule of rates, and not on the basis of the hours or time expended;

(6) the individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper; and

(7) the individual enters into a written contract that specifies the relationship to be that of an independent contractor and not that of an employee.

Sec. 2. Minnesota Statutes 2008, section 268.035, subdivision 25b, is amended to read:

Subd. 25b. **Trucking industry/independent contractors.** In the trucking ~~industry or messenger/courier industries~~, an ~~owner-operator~~ operator of a vehicle that is licensed and registered as a truck, tractor, ~~or truck-tractor~~, or messenger/courier by a governmental motor vehicle regulatory agency is an ~~independent contractor, and is not considered an employee, while performing services in the operation of the truck only if~~ employee, unless each of the following factors is present and if each factor is present, the operator is an independent contractor:

(1) the individual owns the equipment or holds it under a bona fide lease arrangement;

(2) the individual is responsible for the maintenance of the equipment;

(3) the individual ~~bears the principal burdens of~~ is responsible for the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses ~~while on the road. The individual may be paid the carrier's fuel surcharge and incidental costs, including but not limited to, tolls, permits, and lumper fees;~~

(4) the individual is responsible for supplying the necessary personal services to operate the equipment;

(5) the individual's compensation is based on factors related to the work performed, such as a percentage of any schedule of rates, and not on the basis of the hours or time expended; ~~and~~

(6) the individual enters into a written contract that includes billing and payment procedures, and specifies the relationship to be that of an independent contractor and not that of an employee; and

(7) the individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.

Sec. 3. **REPEALER.**

Minnesota Rules, parts 5224.0290; 5224.0291; and 5224.0292, are repealed."

Delete the title and insert:

"A bill for an act relating to employment; regulating the employment status of certain truckers for the purpose of unemployment compensation and workers' compensation; amending Minnesota Statutes 2008, section 268.035, subdivision 25b; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Rules, parts 5224.0290; 5224.0291; 5224.0292."

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

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

S.F. No. 1921: A bill for an act relating to public safety; requiring the Board of Pharmacy to report all controlled substance schedule changes the board recommends to the legislature; amending Minnesota Statutes 2008, section 152.02, subdivision 12.

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

S.F. No. 1905: A bill for an act relating to insurance; creating a process for developing a standard application form for small employer health coverage.

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

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

S.F. No. 312: A bill for an act relating to insurance; requiring coverage for autism spectrum disorders; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Page 2, after line 21, insert:

"Sec. 2. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 53. **Autism spectrum disorder.** Medical assistance covers the services required by section 62A.3094."

Amend the title numbers accordingly

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

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

S.F. No. 1664: A bill for an act relating to human services; modifying the state medical review team process; requiring an annual report; appropriating money; amending Minnesota Statutes 2008, sections 256.01, by adding a subdivision; 256B.055, subdivision 7; 256B.057, subdivision 9.

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

Page 1, delete lines 9 to 16 and insert:

"Subd. 29. **State medical review team.** (a) To ensure the timely processing of determinations of disability by the commissioner's state medical review team under section 256B.055, subdivision 7, paragraph (b), and section 256B.057, subdivision 9, paragraph (j), the commissioner shall review all medical evidence submitted by counties with a referral and seek additional information from providers, applicants, or enrollees to support the determination of disability where necessary.

(b) Prior to a denial or withdrawal of a requested determination of disability due to insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary and appropriate to a determination of disability and (2) assist applicants and enrollees to obtain the evidence, including, but not limited to, medical examinations and electronic medical records."

Page 4, line 31, delete "(a)"

Page 4, line 33, delete "(a)" and insert "(b)"

Page 5, delete lines 1 to 3

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

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

S.F. No. 1151: A bill for an act relating to health and human services; allowing home visitors to be employment and training providers for certain MFIP participants; amending Minnesota Statutes 2008, sections 145A.17, by adding a subdivision; 256J.49, subdivision 4.

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

Page 1, line 9, delete everything before "utilize" and insert "The county social service agency and the local public health department may mutually agree to"

Page 1, line 12, delete "Local social service agencies may also" and insert "The county social service agency and the local public health department may also mutually agree to"

Page 2, line 1, delete everything after "(3)" and insert "a local public health department under section 145A.17, subdivision 4a, that a county has designated to provide employment and training services and is included in the county's service agreement submitted under section 256J.626, subdivision 4"

Page 2, line 2, delete the new language

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

S.F. No. 2010: A bill for an act relating to housing; creating a pilot program to stabilize market

values of residential real estate in certain areas; providing a five-year guarantee against depreciation in value of certain properties; providing incentives to restructure mortgage loans; authorizing rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 462A.

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

Page 1, line 12, delete everything after "Hennepin" and insert ", Ramsey, Olmsted, Saint Louis, and Stearns counties."

Page 1, delete lines 13 and 14

Page 1, line 18, before the period, insert "to provide a five-year guarantee from the state against declining property values in certain areas of the state"

Page 1, delete lines 23 to 25

Page 2, delete lines 1 to 2

Page 2, line 24, after "property" insert "that has declined in value since it was purchased, and is property that is"

Page 2, line 26, after "purchase" insert a period and delete "a"

Page 2, line 28, before the period, insert "and principal payments on the property made by the owner"

Page 2, line 29, delete "acceptable to the commissioner" and insert ", ensuring that the property is free of any encumbrances such as mechanic's liens, second mortgages, or tax liens, and an inspection report that documents that the property is in substantially the same condition as the original inspection report under paragraph (a), clause (3), taking into consideration normal wear and tear on the property"

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

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

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

S.F. No. 178: A bill for an act relating to health; requiring health insurance coverage of durable medical equipment to include coverage of items necessary to reduce asthma symptoms; requiring state health care program coverage of certain items necessary to reduce asthma symptoms; amending Minnesota Statutes 2008, sections 62Q.66; 256B.0625, subdivision 31; 256D.03, subdivision 4.

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

Page 1, delete section 1

Page 3, after line 14, insert:

"(20) asthma education and a home environmental assessment to determine the need for medical equipment to reduce asthma symptoms if performed by a certified asthma educator employed by a

joint commission accredited or Medicare-certified agency;"

Page 3, line 15, strike "(20)" and insert "(21)"

Page 3, line 19, strike "(21)" and insert "(22)"

Page 3, line 21, strike "(22)" and insert "(23)"

Page 3, line 23, strike "(23)" and insert "(24)"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete line 3

Amend the title numbers accordingly

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

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

S.F. No. 993: A bill for an act relating to public safety; clarifying authority of apprehension and detention orders outside county that issued the order; amending Minnesota Statutes 2008, section 401.025, 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 2008, section 13.87, subdivision 1, is amended to read:

Subdivision 1. **Criminal history data.** (a) **Definition.** For purposes of this subdivision, "criminal history data" means all data maintained in criminal history records compiled by the Bureau of Criminal Apprehension ~~and disseminated through the criminal justice information system~~, including, but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, custody and supervision data.

(b) **Classification.** Criminal history data maintained by agencies, political subdivisions and statewide systems are classified as private, pursuant to section 13.02, subdivision 12, except that data created, collected, or maintained by the Bureau of Criminal Apprehension that identify an individual who was convicted of a crime, the offense of which the individual was convicted, associated court disposition and sentence information, controlling agency, and confinement information are public data for 15 years following the discharge of the sentence imposed for the offense. If an individual's name or other identifying information is erroneously associated with a criminal history and a determination is made through a fingerprint verification that the individual is not the subject of the criminal history, the name or other identifying information must be redacted from the public criminal history data. The name and other identifying information must be retained in the criminal history and are classified as private data.

The Bureau of Criminal Apprehension shall provide to the public at the central office of the bureau the ability to inspect in person, at no charge, through a computer monitor the criminal conviction data classified as public under this subdivision.

(c) **Limitation.** Nothing in paragraph (a) or (b) shall limit public access to data made public by section 13.82.

Sec. 2. Minnesota Statutes 2008, section 13.871, is amended by adding a subdivision to read:

Subd. 12. **Crime alert access request.** Data regarding contact information provided by a citizen requesting a crime alert are classified under section 611A.0393.

Sec. 3. **[16C.092] HIRING REQUIREMENTS IN CERTAIN PROCUREMENT CONTRACTS.**

The commissioner may adopt rules under section 16C.03, that require persons or entities that contract with the state for construction or services contracts to employ a minimum number or percentage of low-income persons or former offenders in the performance of the contract and for the duration of the contract unless the employee is terminated for cause. At a minimum, the rules must state the type of contracts covered, the minimum dollar amount of the contract to which the hiring requirement applies, a definition of "low-income" if the policy applies to hiring of low-income persons, how the required number or percentage of persons employed may be calculated, and the extent to which the rules may be met by existing employees of the contractor or new hires by the contractor. The rules may provide for penalties to be imposed on the contractor for failure to comply with the hiring requirements of the policy including, but not limited to, civil penalties and restrictions on future contractual agreements with the contractor. This section does not apply to contracts between the state and an exclusive representative of state employees. For the purposes of this section, "former offender" means an individual who is not currently incarcerated but who has previously been convicted of a felony, regardless of whether the individual is currently under correctional supervision.

Sec. 4. Minnesota Statutes 2008, section 84.027, subdivision 17, is amended to read:

Subd. 17. Background checks for volunteer instructors. (a) The commissioner may conduct background checks for volunteer instructor applicants for department safety training and education programs, including the programs established under sections 84.791 (youth off-highway motorcycle safety education and training), 84.86 and 84.862 (youth and adult snowmobile safety training), 84.925 (youth all-terrain vehicle safety education and training), 97B.015 (youth firearms safety training), and 97B.025 (hunter and trapper education and training).

(b) The commissioner shall perform the background check by retrieving criminal history data as defined in section 13.87 maintained in the criminal justice information system (CJIS) by the Bureau of Criminal Apprehension in the Department of Public Safety and other data sources.

(c) The commissioner shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the applicant that the commissioner will conduct a background check under this section;

(2) a notification to the applicant of the applicant's rights under paragraph (d); and

(3) a signed consent by the applicant to conduct the background check expiring one year from the date of signature.

(d) The volunteer instructor applicant who is the subject of a background check has the right to:

(1) be informed that the commissioner will request a background check on the applicant;

(2) be informed by the commissioner of the results of the background check and obtain a copy of the background check;

(3) obtain any record that forms the basis for the background check and report;

(4) challenge the accuracy and completeness of the information contained in the report or a record; and

(5) be informed by the commissioner if the applicant is rejected because of the result of the background check.

Sec. 5. Minnesota Statutes 2008, section 122A.18, subdivision 8, is amended to read:

Subd. 8. **Background checks.** (a) The Board of Teaching and the commissioner of education must request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all applicants for initial licenses under their jurisdiction. An application for a license under this section must be accompanied by:

(1) an executed criminal history consent form, including fingerprints; and

(2) a money order or cashier's check payable to the Bureau of Criminal Apprehension for the fee for conducting the criminal history background check.

(b) The superintendent of the Bureau of Criminal Apprehension shall perform the background check required under paragraph (a) by retrieving criminal history data ~~maintained in the criminal justice information system computers~~ as defined in section 13.87 and shall also conduct a search of the national criminal records repository, ~~including the criminal justice data communications network~~. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost to the bureau of a background check through the fee charged to the applicant under paragraph (a).

(c) The Board of Teaching or the commissioner of education may issue a license pending completion of a background check under this subdivision, but must notify the individual that the individual's license may be revoked based on the result of the background check.

Sec. 6. Minnesota Statutes 2008, section 123B.03, subdivision 1, is amended to read:

Subdivision 1. **Background check required.** (a) A school hiring authority shall request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all individuals who are offered employment in a school and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to a school, regardless of whether any compensation is paid. In order for an individual to be eligible for employment or to provide the services, the individual must provide an executed criminal history consent form and a money order or check payable to either the Bureau of Criminal Apprehension or the school hiring authority, at the

discretion of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. A school hiring authority deciding to receive payment may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and shall pay the superintendent of the Bureau of Criminal Apprehension directly to conduct the background check. The superintendent of the Bureau of Criminal Apprehension shall conduct the background check by retrieving criminal history data ~~maintained in the criminal justice information system computers~~ as defined in section 13.87. A school hiring authority, at its discretion, may decide not to request a criminal history background check on an individual who holds an initial entrance license issued by the State Board of Teaching or the commissioner of education within the 12 months preceding an offer of employment.

(b) A school hiring authority may use the results of a criminal background check conducted at the request of another school hiring authority if:

(1) the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;

(2) the other school hiring authority conducted a criminal background check within the previous 12 months;

(3) the individual who is the subject of the criminal background check executes a written consent form giving a school hiring authority access to the results of the check; and

(4) there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment.

(c) A school hiring authority may, at its discretion, request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on any individual who seeks to enter a school or its grounds for the purpose of serving as a school volunteer or working as an independent contractor or student employee. In order for an individual to enter a school or its grounds under this paragraph when the school hiring authority decides to request a criminal history background check on the individual, the individual first must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school district in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(d) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the Bureau of Criminal Apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

(e) At the beginning of each school year or when a student enrolls, a school hiring authority must notify parents and guardians about the school hiring authority's policy requiring a criminal history background check on employees and other individuals who provide services to the school, and identify those positions subject to a background check and the extent of the hiring authority's discretion in requiring a background check. The school hiring authority may include the notice in the student handbook, a school policy guide, or other similar communication. Nothing in this paragraph affects a school hiring authority's ability to request a criminal history background check on an individual under paragraph (c).

Sec. 7. Minnesota Statutes 2008, section 136F.581, is amended by adding a subdivision to read:

Subd. 5. **Hiring requirements in certain procurement contracts.** The board may develop policies and procedures consistent with this section that require persons or entities that contract with the board or the colleges and universities for construction or services contracts to employ a minimum number or percentage of low-income persons or former offenders in the performance of the contract and for the duration of the contract unless the employee is terminated for cause. At a minimum, the policies and procedures must state the type of contracts covered, the minimum dollar amount of the contract to which the hiring requirement applies, a definition of "low-income" if the policies and procedures apply to hiring of low-income persons, how the required number or percentage of persons employed may be calculated, and the extent to which the requirements may be met by existing employees of the contractor or new hires by the contractor. The policies and procedures may provide for penalties to be imposed on the contractor for failure to comply with the hiring requirements of the policies and procedures including, but not limited to, civil penalties and restrictions on future contractual agreements between the university and the contractor. This section does not apply to contracts between the board and the colleges and universities and an exclusive representative of their employees. For the purposes of this section, "former offender" means an individual who is not currently incarcerated but who has previously been convicted of a felony, regardless of whether the individual is currently under correctional supervision.

Sec. 8. **[137.32] HIRING REQUIREMENTS IN CERTAIN PROCUREMENT CONTRACTS.**

The Regents of the University of Minnesota may adopt a policy that persons or entities that contract with the university for construction or services contracts be required to employ a minimum number or percentage of low-income persons or former offenders in the performance of the contract and for the duration of the contract unless the employee is terminated for cause. The regents shall establish procurement rules to govern the program authorized by this section. At a minimum, the rules must state the type of contracts covered, the minimum dollar amount of the contract to which the hiring requirement applies, a definition of "low-income" if the ordinance applies to hiring of low-income persons, how the required number or percentage of persons employed may be calculated, and the extent to which the requirements may be met by existing employees of the contractor or new hires by the contractor. The rules may provide for penalties to be imposed on the contractor for failure to comply with the hiring requirements of the rules including, but not limited to, civil penalties and restrictions on future contractual agreements between the university and the contractor. This section does not apply to contracts between the university and an exclusive representative of university employees. For the purposes of this section, "former offender" means an individual who is not currently incarcerated but who has previously been convicted of a felony, regardless of whether the individual is currently under correctional supervision.

Sec. 9. Minnesota Statutes 2008, section 152.02, subdivision 6, is amended to read:

Subd. 6. **Schedule V; restrictions on methamphetamine precursor drugs.** (a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(b) The following items are listed in Schedule V:

(1) any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(iii) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit; or

(iv) not more than 15 milligrams of anhydrous morphine per 100 milliliters or per 100 grams; and

(2) any compound, mixture, or preparation containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients.

(c) No person may sell in a single over-the-counter sale more than two packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of six grams.

(d) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

(1) to provide photographic identification showing the buyer's date of birth; and

(2) to sign a written or electronic document detailing the date of the sale, the name of the buyer, and the amount of the drug sold.

A document described under clause (2) must be retained by the establishment for at least three years and must at all reasonable times be open to the inspection of any law enforcement agency.

Nothing in this paragraph requires the buyer to obtain a prescription for the drug's purchase.

(f) No person may acquire through over-the-counter sales more than six grams of methamphetamine precursor drugs within a 30-day period.

(g) No person may sell in an over-the-counter sale a methamphetamine precursor drug to a person under the age of 18 years. It is an affirmative defense to a charge under this paragraph if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than \$1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

(j) Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

(k) Paragraphs (b) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

(1) The Board of Pharmacy, in consultation with the Department of Public Safety, shall certify

methamphetamine precursor drugs that meet the requirements of paragraph (k), clause (2), and publish an annual listing of these drugs.

(m) Wholesale drug distributors licensed and regulated by the Board of Pharmacy pursuant to sections 151.42 to 151.51 and registered with and regulated by the United States Drug Enforcement Administration are exempt from the methamphetamine precursor drug storage requirements of this section.

(n) This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

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

Sec. 10. [181.986] EMPLOYMENT OF INDIVIDUAL WITH CRIMINAL HISTORY; LIMITATION ON ADMISSIBILITY OF EVIDENCE.

Subdivision 1. **Limitation on admissibility of criminal history.** Information regarding a criminal history record of an employee or former employee may not be introduced as evidence in a civil action against a private employer or its employees or agents that is based on the conduct of the employee or former employee, if:

(1) the duties of the position of employment did not expose members of the public to a greater degree of risk than that created by the employee or former employee interacting with the public outside of the duties of the position or that might be created by being employed in general;

(2) before the occurrence of the act giving rise to the civil action, a court order sealed any record of the criminal case or the employee or former employee received a pardon; or

(3) the record is of an arrest or charge that did not result in a criminal conviction.

Subd. 2. **Relation to other law.** This section does not supersede a statutory requirement to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to actions commenced on or after that date.

Sec. 11. Minnesota Statutes 2008, section 201.014, is amended by adding a subdivision to read:

Subd. 2a. **Felony conviction; restoration of civil rights.** (a) For purposes of this section, an individual convicted of a felony is restored to civil rights as soon as the individual completes any incarceration imposed and executed by the court for the offense. If the individual is later incarcerated for the same offense, the individual's civil rights are lost only during the period of incarceration.

(b) This subdivision does not apply to individuals released from incarceration temporarily on work release, furlough, or similar authority.

Sec. 12. Minnesota Statutes 2008, section 201.071, subdivision 1, is amended to read:

Subdivision 1. **Form.** (a) A voter registration application must be of suitable size and weight for mailing and contain spaces for the following required information: voter's first name, middle name,

and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification, the last four digits of the voter's Social Security number; and voter's signature. The registration application may include the voter's e-mail address, if provided by the voter, and the voter's interest in serving as an election judge, if indicated by the voter. The application must also contain the following certification of voter eligibility:

"I certify that I:

- (1) will be at least 18 years old on election day;
- (2) am a citizen of the United States;
- (3) will have resided in Minnesota for 20 days immediately preceding election day;
- (4) maintain residence at the address given on the registration form;
- (5) am not under court-ordered guardianship in which the court order revokes my right to vote;
- (6) have not been found by a court to be legally incompetent to vote;

(7) have the right to vote because, if I have been convicted of a felony, ~~my felony sentence has expired (been completed) or I have been discharged from my sentence~~ I have completed the term of incarceration for my felony offense; and

(8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than \$10,000, or both."

The certification must include boxes for the voter to respond to the following questions:

"(1) Are you a citizen of the United States?" and

"(2) Will you be 18 years old on or before election day?"

And the instruction:

"If you checked 'no' to either of these questions, do not complete this form."

The form of the voter registration application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act must also be accepted as valid. The federal postcard application form must also be accepted as valid if it is not deficient and the voter is eligible to register in Minnesota.

An individual may use a voter registration application to apply to register to vote in Minnesota or to change information on an existing registration.

(b) Except for persons released temporarily on work release, furlough, or similar authority, a person has been discharged from sentence under paragraph (a), clause (7), upon release from incarceration. This paragraph expires on January 1, 2011.

EFFECTIVE DATE. This section is effective August 1, 2009, except the changes made in

paragraph (a), clause (7), which are effective on January 1, 2011.

Sec. 13. Minnesota Statutes 2008, section 201.155, is amended to read:

201.155 REPORT ON FELONY CONVICTIONS.

Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report monthly by electronic means to the secretary of state the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred of each person who has been convicted of a felony and sentenced to a period of incarceration. The state court administrator shall also report the name, address, and date of birth of each person previously convicted of a felony whose civil rights have been restored. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system.

Sec. 14. **[201.157] DEPARTMENT OF CORRECTIONS DATA.**

As required by the Help America Vote Act of 2002, Public Law 107-252, the commissioner of corrections shall make electronic data available to the secretary of state on individuals 18 years old or older who are: (1) currently imprisoned under a felony sentence and under the commissioner's jurisdiction; and (2) released from imprisonment for a felony sentence. The data must include the name, date of birth, state identification number, and if available, the driver's license or state identification card number.

Sec. 15. **[201.280] DUTIES OF SECRETARY OF STATE; INFORMATION ABOUT VOTING RIGHTS.**

The secretary of state shall develop accurate and complete information in a single publication about the voting rights of people who have been charged with or convicted of a crime. This publication must be made available electronically to the state court administrator for distribution to judges, court personnel, and probation officers, the Department of Corrections for distribution to corrections officials, parole officers, and supervised release agents, and the public.

Sec. 16. Minnesota Statutes 2008, section 204C.08, subdivision 1a, is amended to read:

Subd. 1a. **Voter's Bill of Rights.** The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The Voter's Bill of Rights is as follows:

"VOTER'S BILL OF RIGHTS

For all persons residing in this state who meet federal voting eligibility requirements:

(1) You have the right to be absent from work for the purpose of voting during the morning of election day.

(2) If you are in line at your polling place any time between 7:00 a.m. and 8:00 p.m., you have the right to vote.

(3) If you can provide the required proof of residence, you have the right to register to vote and

to vote on election day.

(4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.

(5) You have the right to request special assistance when voting.

(6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.

(7) You have the right to bring your minor children into the polling place and into the voting booth with you.

(8) ~~If you have been convicted of a felony but your felony sentence has expired (been completed) or you have been discharged from your sentence, you have the right to vote~~ You have the right to vote even if you have been convicted of a felony if you completed the term of incarceration for the felony offense.

(9) If you are under a guardianship, you have the right to vote, unless the court order revokes your right to vote.

(10) You have the right to vote without anyone in the polling place trying to influence your vote.

(11) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.

(12) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.

(13) You have the right to take a sample ballot into the voting booth with you.

(14) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

Sec. 17. Minnesota Statutes 2008, section 204C.10, is amended to read:

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

(a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, ~~the felony sentence has expired or been completed or the individual has been discharged from the sentence~~ completed the term of incarceration for the felony offense, is registered, and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."

(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth.

(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The

voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

Sec. 18. [243.205] NOTICE OF RESTORATION OF RIGHT TO VOTE.

Subdivision 1. **Correctional facilities; designation of official.** The chief executive officer of each state and local correctional facility shall designate an official within the facility to provide the notice and application required under this section to inmates whose right to vote has been restored. The official shall maintain an adequate supply of voter registration applications and informational materials for this purpose.

Subd. 2. **Notice requirement.** A notice of restoration of voting rights and a voter registration application must be provided as follows:

(1) the chief executive officer of each state and local correctional facility shall provide the notice and application to an inmate being released from the facility following incarceration for a felony-level offense; and

(2) a probation or parole officer or supervised release agent shall provide the notice and application to all individuals under correctional supervision for a felony-level offense.

Subd. 3. **Form of notice.** The notice required by subdivision 2 must appear substantially as follows:

"NOTICE OF RESTORATION OF YOUR RIGHT TO VOTE.

Your receipt of this notice today means that your right to vote in Minnesota has been restored. Before you can vote on election day, you still need to register to vote. To register, you can complete a voter registration application and return it to the Office of the Minnesota Secretary of State. You also can register to vote in your polling place on election day. You will not be permitted to cast a ballot until you register to vote. The first time you appear at your polling place to cast a ballot, you may be required to provide proof of your current residence."

Subd. 4. **Failure to provide notice.** A failure to provide proper notice as required by this section does not prevent the restoration of the person's right to vote.

Sec. 19. Minnesota Statutes 2008, section 244.195, subdivision 2, is amended to read:

Subd. 2. **Detention pending hearing.** When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, a court services director has the authority to issue a written order directing any peace officer ~~in the county~~ or any ~~county~~ probation officer in the state serving the district and juvenile courts ~~of the county~~ to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

Sec. 20. Minnesota Statutes 2008, section 244.195, subdivision 3, is amended to read:

Subd. 3. **Release before hearing.** A court services director has the authority to issue a written order directing ~~a county~~ any peace officer or probation officer serving the district and juvenile courts

of ~~the county~~ in the state to release a person detained under subdivision 2 within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the ~~county~~ peace officer or probation officer to release the detained person.

Sec. 21. Minnesota Statutes 2008, section 244.195, subdivision 4, is amended to read:

Subd. 4. **Detention of pretrial releasee.** A court services director has the authority to issue a written order directing any peace officer ~~in the county~~ or any probation officer serving the district and juvenile courts ~~of the county~~ in the state to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this subdivision is sufficient authority for the peace officer or probation officer to detain the person.

Sec. 22. Minnesota Statutes 2008, section 246.13, subdivision 2, is amended to read:

Subd. 2. **Definitions; risk assessment and management.** (a) As used in this section:

(1) "appropriate and necessary medical and other records" includes patient medical records and other protected health information as defined by Code of Federal Regulations, title 45, section 164.501, relating to a patient in a state-operated services facility including, but not limited to, the patient's treatment plan and abuse prevention plan that is pertinent to the patient's ongoing care, treatment, or placement in a community-based treatment facility or a health care facility that is not operated by state-operated services, and includes information describing the level of risk posed by a patient when the patient enters the facility;

(2) "community-based treatment" means the community support services listed in section 253B.02, subdivision 4b;

(3) "criminal history data" means those data maintained or used by the Departments of Corrections and Public Safety and by the supervisory authorities listed in section 13.84, subdivision 1, that relate to an individual's criminal history or propensity for violence, including data in the Corrections Offender Management System (COMS) and Statewide Supervision System (S3) maintained by the Department of Corrections; ~~the Criminal Justice Information System (CJIS) and~~ criminal history data as defined in section 13.87, Integrated Search Service as defined in section 13.873, and the Predatory Offender Registration (POR) system maintained by the Department of Public Safety; and the CriMNet system;

(4) "designated agency" means the agency defined in section 253B.02, subdivision 5;

(5) "law enforcement agency" means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release;

(6) "predatory offender" and "offender" mean a person who is required to register as a predatory offender under section 243.166; and

(7) "treatment facility" means a facility as defined in section 253B.02, subdivision 19.

(b) To promote public safety and for the purposes and subject to the requirements of this paragraph, the commissioner or the commissioner's designee shall have access to, and may review and disclose, medical and criminal history data as provided by this section, as necessary to comply

with Minnesota Rules, part 1205.0400:

(1) to determine whether a patient is required under state law to register as a predatory offender according to section 243.166;

(2) to facilitate and expedite the responsibilities of the special review board and end-of-confinement review committees by corrections institutions and state treatment facilities;

(3) to prepare, amend, or revise the abuse prevention plans required under section 626.557, subdivision 14, and individual patient treatment plans required under section 253B.03, subdivision 7;

(4) to facilitate the custody, supervision, and transport of individuals transferred between the Department of Corrections and the Department of Human Services; or

(5) to effectively monitor and supervise individuals who are under the authority of the Department of Corrections, the Department of Human Services, and the supervisory authorities listed in section 13.84, subdivision 1.

(c) The state-operated services treatment facility must make a good faith effort to obtain written authorization from the patient before releasing information from the patient's medical record.

(d) If the patient refuses or is unable to give informed consent to authorize the release of information required above, the chief executive officer for state-operated services shall provide the appropriate and necessary medical and other records. The chief executive officer shall comply with the minimum necessary requirements.

(e) The commissioner may have access to the National Crime Information Center (NCIC) database, through the Department of Public Safety, in support of the law enforcement functions described in paragraph (b).

Sec. 23. Minnesota Statutes 2008, section 253B.141, subdivision 1, is amended to read:

Subdivision 1. **Report of absence.** (a) If a patient committed under this chapter or detained under a judicial hold is absent without authorization, and either: (1) does not return voluntarily within 72 hours of the time the unauthorized absence began; or (2) is considered by the head of the treatment facility to be a danger to self or others, then the head of the treatment facility shall report the absence to the local law enforcement agency. The head of the treatment facility shall also notify the committing court that the patient is absent and that the absence has been reported to the local law enforcement agency. The committing court may issue an order directing the law enforcement agency to transport the patient to an appropriate facility.

(b) Upon receiving a report that a patient subject to this section is absent without authorization, the local law enforcement agency shall enter information on the patient ~~through the criminal justice information system~~ into the missing persons file of the National Crime Information Center computer according to the missing persons practices.

Sec. 24. Minnesota Statutes 2008, section 299A.681, is amended to read:

299A.681 FINANCIAL CRIMES ~~OVERSIGHT COUNCIL~~ ADVISORY BOARD AND TASK FORCE.

Subdivision 1. ~~Oversight Council~~ **Advisory board.** The Minnesota Financial Crimes ~~Oversight Council~~ Advisory Board shall provide ~~guidance~~ advice to the commissioner of public safety related to the investigation and prosecution of identity theft and financial crime.

Subd. 2. **Membership.** The ~~Oversight Council~~ advisory board consists of the following individuals, or their designees:

- (1) the commissioner of public safety;
- (2) the attorney general;
- (3) two chiefs of police, selected by the Minnesota Chiefs of Police Association ~~from police departments that participate in the Minnesota Financial Crimes Task Force;~~
- (4) two sheriffs, selected by the Minnesota Sheriffs Association ~~from sheriff departments that participate in the task force;~~
- (5) the United States attorney for the district of Minnesota;
- (6) a county attorney, selected by the Minnesota County Attorneys Association;
- ~~(7) a representative from the United States Postal Inspector's Office, selected by the oversight council;~~
- ~~(8) a representative from a not-for-profit retail merchants industry, selected by the oversight council;~~
- ~~(9) a representative from a not-for-profit banking and credit union industry, selected by the oversight council;~~
- ~~(10) a representative from a not-for-profit association representing senior citizens, selected by the oversight council;~~
- (11) (7) a representative from the Board of Public Defense, selected by that board;
- (8) a representative from a federal law enforcement agency, selected by the advisory board;
- (9) a representative from the retail merchants industry, selected by the advisory board;
- (10) a representative from the banking and credit union industry, selected by the advisory board;
- (11) a representative on behalf of senior citizens, selected by the advisory board;
- (12) the statewide commander of the task force;
- ~~(12) a representative from the Board of Public Defense, selected by the board;~~
- (13) two additional members selected by the ~~oversight council~~ advisory board;
- (14) a senator who serves on the committee having jurisdiction over criminal justice policy, chosen by the Subcommittee on Committees of the senate Committee on Rules and Administration; and
- (15) a representative who serves on the committee having jurisdiction over criminal justice policy, chosen by the speaker of the house.

The ~~oversight council~~ advisory board may adopt procedures to govern its conduct and shall select a chair from among its members. The legislative members of the ~~council~~ advisory board may not vote on matters before the ~~council~~ board.

Subd. 3. **Duties.** The ~~oversight council shall develop~~ advisory board shall offer advice to the commissioner on the development of an overall strategy to ameliorate the harm caused to the public by identity theft and financial crime within Minnesota. The strategy may include the development of protocols and procedures to investigate financial crimes and a structure for best addressing these issues on a statewide basis and in a multijurisdictional manner. Additionally, the oversight council The commissioner shall:

(1) establish a multijurisdictional statewide Minnesota Financial Crimes Task Force to investigate major financial crimes;

(2) with advice from the advisory board, select a statewide commander of the task force who serves at the pleasure of the ~~oversight council~~ commissioner;

(3) ~~assist the Department of Public Safety in developing~~ develop an objective grant review application process that is free from conflicts of interest;

(4) ~~make funding recommendations to the commissioner of public safety on~~ with advice from the advisory board, issue grants to support efforts to combat identity theft and financial crime;

(5) with advice from the advisory board, assist law enforcement agencies and victims in developing a process to collect and share information to improve the investigation and prosecution of identity theft and financial crime;

(6) with advice from the advisory board, develop and approve an operational budget for the office of the statewide commander and the ~~oversight council~~ Minnesota Financial Crimes Task Force; and

(7) enter into any contracts necessary to establish and maintain a relationship with retailers, financial institutions, and other businesses to deal effectively with identity theft and financial crime.

The task force described in clause (1) may consist of members from local law enforcement agencies, federal law enforcement agencies, state and federal prosecutors' offices, ~~the Board of Public Defense,~~ and representatives from ~~elderly victims,~~ retail businesses, financial institutions, and not-for-profit organizations.

Subd. 4. **Statewide commander.** (a) ~~The Minnesota Financial Crimes Task Force commander under Minnesota Statutes 2004, section 299A.68, shall oversee the transition of that task force into the task force described in subdivision 3 and remain in place as its commander until July 1, 2008. On that date, The commissioner of public safety shall appoint as a statewide commander the individual selected by the oversight council under subdivision 3.~~

(b) The commander shall:

(1) coordinate and monitor all multijurisdictional identity theft and financial crime enforcement activities;

(2) facilitate local efforts and ensure statewide coordination with efforts to combat identity theft and financial crime;

- (3) facilitate training for law enforcement and other personnel;
- (4) monitor compliance with investigative protocols;
- (5) implement an outcome evaluation and data quality control process;
- (6) be responsible for the selection and for cause removal of assigned task force investigators who are designated participants under a memorandum of understanding or who receive grant funding;
- (7) provide supervision of assigned task force investigators;
- (8) submit a task force operational budget to the ~~oversight council~~ commissioner of public safety for approval; and
- (9) submit quarterly task force activity reports to the ~~oversight council~~ advisory board.

Subd. 5. **Participating officers; employment status.** All law enforcement officers selected to participate in the task force must be licensed peace officers as defined in section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Participating officers remain employees of the same entity that employed them before joining any multijurisdictional entity established under this section. Participating officers are not employees of the state.

Subd. 6. **Jurisdiction and powers.** Law enforcement officers participating in any multijurisdictional entity established under this section have statewide jurisdiction to conduct criminal investigations and have the same powers of arrest as those possessed by a sheriff. ~~The task force shall retain from its predecessor the assigned originating reporting number for case reporting purposes.~~

Subd. 7. **Grants authorized.** The commissioner of public safety, ~~upon recommendation of the oversight council~~ with advice from the advisory board, shall make grants to state and local units of government to combat identity theft and financial crime. The commander, as funding permits, may prepare a budget to establish four regional districts and funding grant allocations programs outside the counties of Hennepin, Ramsey, Anoka, Washington, and Dakota. The budget must be reviewed and approved by the ~~oversight council and recommended to the~~ commissioner to support these efforts.

Subd. 8. **Victims assistance program.** (a) The ~~oversight council~~ commissioner may establish a victims' assistance program to assist victims of economic crimes and provide prevention and awareness programs. The ~~oversight council~~ commissioner may retain the services of not-for-profit organizations to assist in the development and delivery systems in aiding victims of financial crime. The program may not provide any financial assistance to victims, but may assist victims in obtaining police assistance and advise victims in how to protect personal accounts and identities. Services may include a victim toll-free telephone number, fax number, Web site, Monday through Friday telephone service, e-mail response, and interfaces to other helpful Web sites. Victims' information compiled are governed under chapter 13.

(b) The ~~oversight council~~ commissioner may post or communicate through public service announcements in newspapers, radio, television, cable access, billboards, Internet, Web sites, and other normal advertising channels, a financial reward of up to \$2,000 for tips leading to the apprehension and successful prosecution of individuals committing economic crime. All rewards

must ~~meet the oversight council's standards~~ be approved by the commissioner. The release of funds must be made to an individual whose information leads to the apprehension and prosecution of offenders committing economic or financial crimes against citizens or businesses in Minnesota. All rewards paid to an individual must be reported to the Department of Revenue along with the individual's Social Security number.

Subd. 9. ~~Oversight council Advisory board and task force are permanent.~~ Notwithstanding section 15.059, this section does not expire.

Subd. 10. **Funding.** ~~The oversight council commissioner~~ may accept lawful grants and in-kind contributions from any federal, state, or local source or legal business or individual not funded by this section for general operation support, including personnel costs. These grants or in-kind contributions are not to be directed toward the case of a particular victim or business. The oversight council's task force's fiscal agent shall handle all funds approved by the oversight council commissioner, including in-kind contributions.

Subd. 11. **Forfeiture.** Property seized by the task force is subject to forfeiture pursuant to sections 609.531, 609.5312, 609.5313, and 609.5315 if ownership cannot be established. ~~The council task force~~ shall receive the proceeds from the sale of all property properly seized and forfeited.

Subd. 12. ~~Transfer equipment from current task force.~~ All equipment possessed by the task force described in Minnesota Statutes 2004, section 299A.68, is transferred to the oversight council for use by the task force described in this section.

Subd. 13. **Report required.** By February 1 of each year, ~~the oversight council commissioner~~ shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on the activities of the council and task force. At a minimum, this annual report must include:

(1) a description of the ~~council's and~~ task force's goals for the previous year and for the coming year;

(2) a description of the outcomes the ~~council and~~ task force achieved or did not achieve during the preceding year and a description of the outcomes they will seek to achieve during the coming year;

(3) any legislative recommendations the ~~council or task force~~ advisory board or commissioner has including, where necessary, a description of the specific legislation needed to implement the recommendations;

(4) a detailed accounting of how appropriated money, grants, and in-kind contributions were spent; and

(5) a detailed accounting of the grants awarded under this section.

Sec. 25. Minnesota Statutes 2008, section 299C.115, is amended to read:

299C.115 WARRANT INFORMATION PROVIDED TO STATE.

(a) By January 1, 1996, every county shall, in the manner provided in either clause (1) or (2), make warrant information available to other users of the ~~Minnesota criminal justice information~~

~~system~~ criminal justice data communications network as defined in section 299C.46:

(1) the county shall enter the warrant information in the warrant file ~~of the Minnesota criminal justice information system~~ maintained by the Bureau of Criminal Apprehension in the Department of Public Safety; or

(2) the county, at no charge to the state, shall make the warrant information that is maintained in the county's computer accessible by means of a single query ~~to the Minnesota criminal justice information system~~ made through the Bureau of Criminal Apprehension in the Department of Public Safety.

(b) As used in this section, "warrant information" means information on all outstanding felony, gross misdemeanor, and misdemeanor warrants for adults and juveniles that are issued within the county.

Sec. 26. Minnesota Statutes 2008, section 299C.40, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located in the Department of Public Safety and managed by the Bureau of Criminal Apprehension, ~~Criminal Justice Information Systems Section~~. A reference in this section to "CIBRS" includes the Bureau of Criminal Apprehension.

(c) "Law enforcement agency" means a Minnesota municipal police department, the Metropolitan Transit Police, the Metropolitan Airports Police, the University of Minnesota Police Department, the Department of Corrections Fugitive Apprehension Unit, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or the Minnesota State Patrol.

Sec. 27. Minnesota Statutes 2008, section 299C.46, subdivision 1, is amended to read:

Subdivision 1. **Establishment; interconnection.** The commissioner of public safety shall establish a criminal justice data communications network which will enable the interconnection of the criminal justice agencies within the state ~~into a unified criminal justice information system~~. The commissioner of public safety is authorized to lease or purchase facilities and equipment as may be necessary to establish and maintain the data communications network.

Sec. 28. Minnesota Statutes 2008, section 299C.52, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** As used in sections 299C.52 to 299C.56, the following terms have the meanings given them:

(a) "Child" means any person under the age of 18 years or any person certified or known to be mentally incompetent.

~~(b) "CJIS" means Minnesota criminal justice information system.~~

~~(e)~~ "Missing" means the status of a child after a law enforcement agency that has received a report of a missing child has conducted a preliminary investigation and determined that the child cannot be located.

~~(d)~~ (c) "NCIC" means National Crime Information Center.

~~(e)~~ (d) "Endangered" means that a law enforcement official has received sufficient evidence that the child is with a person who presents a threat of immediate physical injury to the child or physical or sexual abuse of the child.

Sec. 29. Minnesota Statutes 2008, section 299C.52, subdivision 3, is amended to read:

Subd. 3. **Computer equipment and programs.** The commissioner shall provide the necessary computer hardware and computer programs to enter, modify, and cancel information on missing children in the NCIC computer ~~through the CJS~~. These programs must provide for search and retrieval of information using the following identifiers: physical description, name and date of birth, name and Social Security number, name and driver's license number, vehicle license number, and vehicle identification number. The commissioner shall also provide a system for regional, statewide, multistate, and nationwide broadcasts of information on missing children. These broadcasts shall be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the local law enforcement agency.

Sec. 30. Minnesota Statutes 2008, section 299C.52, subdivision 4, is amended to read:

Subd. 4. **Authority to enter or retrieve information.** Only law enforcement agencies may enter missing child information ~~through the CJS~~ into the NCIC computer or retrieve information ~~through the CJS~~ from the NCIC computer.

Sec. 31. Minnesota Statutes 2008, section 299C.53, subdivision 1, is amended to read:

Subdivision 1. **Investigation and entry of information.** Upon receiving a report of a child believed to be missing, a law enforcement agency shall conduct a preliminary investigation to determine whether the child is missing. If the child is initially determined to be missing and endangered, the agency shall immediately consult the Bureau of Criminal Apprehension during the preliminary investigation, in recognition of the fact that the first two hours are critical. If the child is determined to be missing, the agency shall immediately enter identifying and descriptive information about the child ~~through the CJS~~ into the NCIC computer. Law enforcement agencies having direct access to ~~the CJS~~ and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Sec. 32. Minnesota Statutes 2008, section 299C.62, subdivision 1, is amended to read:

Subdivision 1. **Generally.** The superintendent shall develop procedures to enable a children's service provider to request a background check to determine whether a children's service worker is the subject of any reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes ~~maintained in the CJS computers~~. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of a criminal history check. The superintendent shall recover the cost of a background check through a fee charged the children's service provider.

Sec. 33. Minnesota Statutes 2008, section 299C.65, subdivision 1, is amended to read:

Subdivision 1. **Membership, duties.** (a) The Criminal and Juvenile Justice Information Policy Group consists of the commissioner of corrections, the commissioner of public safety, the state chief information officer, the commissioner of finance, four members of the judicial branch appointed by

the chief justice of the Supreme Court, and the chair and first vice-chair of the Criminal and Juvenile Justice Information Task Force. The policy group may appoint additional, nonvoting members as necessary from time to time.

(b) The commissioner of public safety is designated as the chair of the policy group. The commissioner and the policy group have overall responsibility for the ~~successful completion~~ integration of statewide criminal justice information system integration (CriMNet) systems. This integration effort shall be known as CriMNet. The policy group may hire an executive director to manage the CriMNet projects and to be responsible for the day-to-day operations of CriMNet. The executive director shall serve at the pleasure of the policy group in unclassified service. The policy group must ensure that generally accepted project management techniques are utilized for each CriMNet project, including:

- (1) clear sponsorship;
- (2) scope management;
- (3) project planning, control, and execution;
- (4) continuous risk assessment and mitigation;
- (5) cost management;
- (6) quality management reviews;
- (7) communications management;
- (8) proven methodology; and
- (9) education and training.

(c) Products and services for CriMNet project management, system design, implementation, and application hosting must be acquired using an appropriate procurement process, which includes:

- (1) a determination of required products and services;
- (2) a request for proposal development and identification of potential sources;
- (3) competitive bid solicitation, evaluation, and selection; and
- (4) contract administration and close-out.

(d) The policy group shall study and make recommendations to the governor, the Supreme Court, and the legislature on:

(1) a framework for integrated criminal justice information systems, including the development and maintenance of a community data model for state, county, and local criminal justice information;

(2) the responsibilities of each entity within the criminal and juvenile justice systems concerning the collection, maintenance, dissemination, and sharing of criminal justice information with one another;

(3) actions necessary to ensure that information maintained in the criminal justice information systems is accurate and up-to-date;

(4) the development of an information system containing criminal justice information on gross misdemeanor-level and felony-level juvenile offenders that is part of the integrated criminal justice information system framework;

(5) the development of an information system containing criminal justice information on misdemeanor arrests, prosecutions, and convictions that is part of the integrated criminal justice information system framework;

(6) comprehensive training programs and requirements for all individuals in criminal justice agencies to ensure the quality and accuracy of information in those systems;

(7) continuing education requirements for individuals in criminal justice agencies who are responsible for the collection, maintenance, dissemination, and sharing of criminal justice data;

(8) a periodic audit process to ensure the quality and accuracy of information contained in the criminal justice information systems;

(9) the equipment, training, and funding needs of the state and local agencies that participate in the criminal justice information systems;

(10) the impact of integrated criminal justice information systems on individual privacy rights;

(11) the impact of proposed legislation on the criminal justice system, including any fiscal impact, need for training, changes in information systems, and changes in processes;

(12) the collection of data on race and ethnicity in criminal justice information systems;

(13) the development of a tracking system for domestic abuse orders for protection;

(14) processes for expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals; and

(15) the development of a database for extended jurisdiction juvenile records and whether the records should be public or private and how long they should be retained.

Sec. 34. Minnesota Statutes 2008, section 299C.65, subdivision 5, is amended to read:

Subd. 5. **Review of funding and grant requests.** (a) The Criminal and Juvenile Justice Information Policy Group shall review the funding requests for criminal justice information systems from state, county, and municipal government agencies. The policy group shall review the requests for compatibility to statewide criminal justice information system standards. The review shall be forwarded to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over criminal justice funding and policy.

(b) The ~~CrimNet program office~~ executive director, in consultation with the Criminal and Juvenile Justice Information Task Force and with the approval of the policy group, shall create the requirements for any grant request and determine the integration priorities for the grant period. The ~~CrimNet program office~~ executive director shall also review the requests submitted for compatibility to statewide criminal justice information systems standards.

(c) The task force shall review funding requests for criminal justice information systems grants and make recommendations to the policy group. The policy group shall review the

recommendations of the task force and shall make a final recommendation for criminal justice information systems grants to be made by the commissioner of public safety. Within the limits of available state appropriations and federal grants, the commissioner of public safety shall make grants for projects that have been recommended by the policy group.

(d) The policy group may approve grants only if the applicant provides an appropriate share of matching funds as determined by the policy group to help pay up to one-half of the costs of the grant request. The matching requirement must be constant for all applicants within each grant offering. The policy group shall adopt policies concerning the use of in-kind resources to satisfy the match requirement and the sources from which matching funds may be obtained. Local operational or technology staffing costs may be considered as meeting this match requirement. Each grant recipient shall certify to the policy group that it has not reduced funds from local, county, federal, or other sources which, in the absence of the grant, would have been made available to the grant recipient to improve or integrate criminal justice technology.

(e) All grant recipients shall submit to the CrimNet program office executive director all requested documentation including grant status, financial reports, and a final report evaluating how the grant funds improved the agency's criminal justice integration priorities. The CrimNet program office executive director shall establish the recipient's reporting dates at the time funds are awarded.

Sec. 35. Minnesota Statutes 2008, section 299C.68, subdivision 2, is amended to read:

Subd. 2. **Procedures.** The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes ~~maintained in the CJS computers~~. The superintendent shall notify the owner in writing of the results of the background check. If the manager has resided in Minnesota for less than ten years or upon request of the owner, the superintendent shall also either: (1) conduct a search of the national criminal records repository, including the criminal justice data communications network; or (2) conduct a search of the criminal justice data communications network records in the state or states where the manager has resided for the preceding ten years. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Sec. 36. **[364.021] PUBLIC EMPLOYMENT; CONSIDERATION OF CRIMINAL RECORDS.**

(a) A public employer may not inquire into or consider the criminal record or criminal history of an applicant for public employment until the applicant has been selected for an interview by the employer.

(b) This section does not apply to the Department of Corrections or to public employers who have a statutory duty to conduct a criminal history background check or otherwise take into consideration a potential employee's criminal history during the hiring process.

(c) This section does not prohibit a public employer from notifying applicants that law or the employer's policy will disqualify an individual with a particular criminal history background from employment in particular positions.

Sec. 37. Minnesota Statutes 2008, section 388.24, subdivision 4, is amended to read:

Subd. 4. **Reporting of data to ~~criminal justice information system (CJIS)~~ Bureau of Criminal Apprehension.** Effective August 1, 1997, every county attorney who establishes a diversion program under this section shall report the following information to the Bureau of Criminal Apprehension:

- (1) the name and date of birth of each diversion program participant and any other identifying information the superintendent considers necessary;
- (2) the date on which the individual began to participate in the diversion program;
- (3) the date on which the individual is expected to complete the diversion program;
- (4) the date on which the individual successfully completed the diversion program, where applicable; and
- (5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

The superintendent shall cause the information described in this subdivision to be entered into and maintained in the criminal history file of the ~~Minnesota Criminal Justice Information System~~ as defined in section 13.87.

Sec. 38. Minnesota Statutes 2008, section 401.025, subdivision 1, is amended to read:

Subdivision 1. **Peace officers and probation officers serving CCA counties.** (a) When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, the chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer ~~in the county~~ or any probation officer in the state serving the district and juvenile courts ~~of the county~~ to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

(b) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing a peace officer or probation officer serving the district and juvenile courts ~~of the county~~ to release a person detained under paragraph (a) within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the peace officer or probation officer to release the detained person.

(c) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer ~~in the county~~ or any probation officer serving the district and juvenile courts ~~of the county~~ to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this paragraph is sufficient authority for the peace officer or probation officer to detain the person.

Sec. 39. Minnesota Statutes 2008, section 401.065, subdivision 3a, is amended to read:

Subd. 3a. **Reporting of data to ~~criminal justice information system (CJIS)~~ Bureau of Criminal Apprehension.** (a) Every county attorney who establishes a diversion program under this section shall report the following information to the Bureau of Criminal Apprehension:

(1) the name and date of birth of each diversion program participant and any other identifying information the superintendent considers necessary;

(2) the date on which the individual began to participate in the diversion program;

(3) the date on which the individual is expected to complete the diversion program;

(4) the date on which the individual successfully completed the diversion program, where applicable; and

(5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

The superintendent shall cause the information described in this subdivision to be entered into and maintained in the criminal history file ~~of the Minnesota criminal justice information system~~ as defined in section 13.87.

(b) Effective August 1, 1997, the reporting requirements of this subdivision shall apply to misdemeanor offenses.

Sec. 40. Minnesota Statutes 2008, section 403.36, is amended by adding a subdivision to read:

Subd. 1g. **State Interoperability Executive Committee.** (a) In addition to responsibilities provided for in subdivision 1e, the Statewide Radio Board is designated as Minnesota's State Interoperability Executive Committee.

(b) As Minnesota's State Interoperability Executive Committee, the Statewide Radio Board shall:

(1) develop and maintain a statewide plan for local and private public safety communications interoperability that integrates with the Minnesota emergency operation plan;

(2) develop and adopt guidelines and operational standards for local and private public safety communications interoperability within Minnesota;

(3) promote coordination and cooperation among local, state, federal, and tribal public safety agencies in addressing statewide public safety communications interoperability within Minnesota;

(4) advise the commissioner of the Department of Public Safety on public safety communications interoperability and on the allocation and use of funds made available to Minnesota to support public safety communications interoperability;

(5) to the extent permitted by federal law, Federal Communications Commission regulations, and the National Telecommunications and Information Administration, develop guidelines and standards for the efficient use of interoperability frequencies on all frequency spectrums assigned to public safety users; and

(6) to the extent permitted by federal law and treaties with Canada, develop guidelines and standards that support interoperability with adjoining states and provinces of Canada along

Minnesota's northern border.

Sec. 41. Minnesota Statutes 2008, section 403.36, subdivision 2, is amended to read:

Subd. 2. **Plan contents.** (a) The statewide, shared radio and communication system project plan must include:

(1) standards, guidelines, and comprehensive design for the system, including use and integration of existing public and private communications infrastructure;

(2) proposed project implementation schedule, phases, and estimated costs for each phase of the plan;

(3) recommended statutory changes required for effective implementation and administration of the statewide, shared trunked radio and communication system; ~~and~~

(4) an interoperability committee to make recommendations on the statewide plan for local and private public safety communications interoperability and on guidelines and operational standards necessary to promote public safety communications interoperability within Minnesota; and

~~(4)~~ (5) a policy for the lease of excess space or capacity on systems constructed under the project plan, consistent with section 174.70, subdivision 2, with priority given first to local units of government for public safety communication transmission needs and second to any other communications transmission needs of either the public or private sector.

(b) The Statewide Radio Board must ensure that generally accepted project management techniques are utilized for each project or phase of the backbone of the statewide, shared radio and communication system consistent with guidelines of the Project Management Office of the Office of Enterprise Technology:

(1) clear sponsorship;

(2) scope management;

(3) project planning, control, and execution;

(4) continuous risk assessment and mitigation;

(5) cost management;

(6) quality management reviews;

(7) communications management; and

(8) proven methodology.

Sec. 42. **[471.347] HIRING REQUIREMENTS AUTHORIZED IN CITY CONTRACTS.**

A statutory or home rule charter city may provide by ordinance that persons or entities that contract with the city for construction or services contracts be required to employ a minimum number or percentage of city residents, low-income city residents, or former offenders in the performance of the contract and for the duration of the contract unless the employee is terminated for cause. At a minimum, the ordinance must state the type of contracts covered, the minimum dollar amount of the contract to which the hiring requirement applies, a definition of "low-income"

if the ordinance applies to hiring of low-income city residents, how the required number or percentage of persons employed may be calculated, and the extent to which the requirements may be met by existing employees of the contractor or new hires by the contractor. The ordinance may provide for penalties to be imposed on the contractor for failure to comply with the hiring requirements of the city ordinance including, but not limited to, civil penalties and restrictions on future contractual agreements between the city and the contractor. This section does not apply to contracts between the city and an exclusive representative of city employees. For the purposes of this section, "former offender" means an individual who is not currently incarcerated but who has previously been convicted of a felony, regardless of whether the individual is currently under correctional supervision.

Sec. 43. Minnesota Statutes 2008, section 480.23, is amended to read:

480.23 COMPUTER ACQUISITION BY COURTS.

In order to facilitate the effective management and coordination of the Minnesota courts system, an appropriate official of any court or of a local governmental unit in providing services to any court, if authorized by the state court administrator and with the concurrence of the contracting vendor, may acquire electronic data processing equipment or services through an existing contract originated by the Supreme Court. The state court administrator shall grant this authority only pursuant to the implementation of justice information systems compatible with systems ~~participating on the Minnesota Criminal Justice Information Systems Communications Network~~ administered by the Bureau of Criminal Apprehension in the Department of Public Safety.

Sec. 44. Minnesota Statutes 2008, section 484.91, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** Misdemeanor violations bureaus in the Fourth Judicial District shall be established in Minneapolis, ~~a southern suburb location, and at any other northern and western suburban locations dispersed throughout the county as may be~~ designated by a majority of the judges of the court.

Sec. 45. Minnesota Statutes 2008, section 518.165, subdivision 5, is amended to read:

Subd. 5. **Procedure, criminal history, and maltreatment records background study.** (a) When the court requests a background study under subdivision 4, paragraph (a), the request shall be submitted to the Department of Human Services through the department's electronic online background study system.

(b) When the court requests a search of the National Criminal Records Repository, the court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint card provided by the commissioner of human services.

(c) The commissioner of human services shall provide the court with ~~information~~ criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension's ~~Criminal Justice Information System~~ Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under section 626.556, and substantiated maltreatment of a vulnerable adult under section 626.557, within 15 working days of receipt of a request. If the subject of the study has been determined by the Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or vulnerable adult in a licensed facility,

the response must include a copy of the public portion of the investigation memorandum under section 626.556, subdivision 10f, or the public portion of the investigation memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data. When the commissioner finds no criminal history or substantiated maltreatment on a background study subject, the commissioner shall make these results available to the court electronically through the secure online background study system.

(d) Notwithstanding section 626.556, subdivision 10f, or 626.557, subdivision 12b, if the commissioner or county lead agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study.

Sec. 46. Minnesota Statutes 2008, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;
- (4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;
- (5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;
- (6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;
- (7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational

program under section 518B.02;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; ~~and~~

(13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section; or

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent, or order the respondent to have no contact with the pet or companion animal.

(b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Sec. 47. Minnesota Statutes 2008, section 518B.01, subdivision 7, is amended to read:

Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

- (1) restraining the abusing party from committing acts of domestic abuse;
- (2) excluding any party from the dwelling they share or from the residence of the other except by further order of the court;
- (3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;
- (4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party; ~~and~~
- (5) continuing all currently available insurance coverage without change in coverage or beneficiary designation; or
- (6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party, or ordering the abusing party to have no contact with the pet or companion animal.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

Sec. 48. Minnesota Statutes 2008, section 524.5-118, subdivision 2, is amended to read:

Subd. 2. Procedure; criminal history and maltreatment records background check. (a) The

court shall request the commissioner of human services to complete a background study under section 245C.32. The request must be accompanied by the applicable fee and the signed consent of the subject of the study authorizing the release of the data obtained to the court. If the court is requesting a search of the National Criminal Records Repository, the request must be accompanied by a set of classifiable fingerprints of the subject of the study. The fingerprints must be recorded on a fingerprint card provided by the commissioner of human services.

(b) The commissioner of human services shall provide the court with ~~information~~ criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension's criminal justice information system Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of vulnerable adults under section 626.557 and substantiated maltreatment of minors under section 626.556 within 15 working days of receipt of a request. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult or minor, the response must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b, or the public portion of the investigation memorandum under section 626.556, subdivision 10f. If the court did not request a search of the National Criminal Records Repository and information from the Bureau of Criminal Apprehension indicates that the subject is a multistate offender or that multistate offender status is undetermined, the response must include this information. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data.

(c) Notwithstanding section 626.557, subdivision 12b, or 626.556, subdivision 10f, if the commissioner of human services or a county lead agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a vulnerable adult or minor, the commissioner or the county may provide this information to the court that requested the background study. The commissioner may also provide the court with additional criminal history or substantiated maltreatment information that becomes available after the background study is done.

Sec. 49. Minnesota Statutes 2008, section 609.165, subdivision 1, is amended to read:

Subdivision 1. **Restoration.** (a) When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore the person to all civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.

(b) Section 201.014, subdivision 2a, governs the restoration of voting rights for persons whose right to vote have been lost due to a conviction for a felony.

Sec. 50. Minnesota Statutes 2008, section 609.341, subdivision 11, is amended to read:

Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (o), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

- (i) the intentional touching by the actor of the complainant's intimate parts, or
- (ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts

effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts, or

(v) the intentional touching by the actor of the complainant's body or the clothing covering the complainant's body with the actor's seminal fluid or sperm.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; ~~or~~

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts; or

(v) the intentional touching by the actor of the complainant's body or the clothing covering the complainant's body with the actor's seminal fluid or sperm.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

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

Sec. 51. Minnesota Statutes 2008, section 609.352, subdivision 2a, is amended to read:

Subd. 2a. ~~Internet or computer~~ **Electronic solicitation of children.** A person 18 years of age or older who uses the Internet ~~or~~, a computer, computer program, computer network, ~~or~~ computer system, or other electronic device capable of electronic data storage or transmission to commit any of the following acts, with the intent to arouse the sexual desire of any person, is guilty of a felony and may be sentenced as provided in subdivision 4:

(1) soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct;

(2) engaging in communication ~~relating to or describing sexual conduct~~ with a child or someone the person reasonably believes is a child, relating to or describing sexual conduct; or

(3) distributing any material, language, or communication, including a photographic or video image, that relates to or describes sexual conduct to a child or someone the person reasonably believes is a child.

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

Sec. 52. Minnesota Statutes 2008, section 609.605, subdivision 1, is amended to read:

Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given them for purposes of this section.

(1) "Premises" means real property and any appurtenant building or structure.

(2) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.002, subdivision 16.

(3) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(4) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(5) "Posted," as used:

(i) in paragraph (b), clause (9), means the placement of a sign at least 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land; and

(ii) in paragraph (b), clause (10), means the placement of signs that:

(A) state "no trespassing" or similar terms;

(B) display letters at least two inches high;

(C) state that Minnesota law prohibits trespassing on the property; and

(D) are posted in a conspicuous place and at intervals of 500 feet or less.

(6) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(7) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; ~~or~~

(10) enters the locked or posted aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; or

(11) crosses into or enters any public or private area lawfully cordoned off by or at the direction of a peace officer engaged in the performance of official duties. As used in this clause: (i) an area may be "cordoned off" through the use of tape, barriers, or other means conspicuously placed and identifying the area as being restricted by a peace officer and identifying the responsible authority; and (ii) "peace officer" has the meaning given in section 626.84, subdivision 1. It is an affirmative defense to a charge under this clause that a peace officer permitted entry into the restricted area or there was no peace officer present at the site.

Sec. 53. Minnesota Statutes 2008, section 611.272, is amended to read:

611.272 ACCESS TO GOVERNMENT DATA.

The district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216 has access to the criminal justice data communications network described in section 299C.46, as provided in this section. Access to data under this section is limited to data necessary to prepare criminal cases in which the public defender has been appointed as follows:

(1) access to data about witnesses in a criminal case shall be limited to records of criminal convictions; and

(2) access to data regarding the public defender's own client which includes, but is not limited to, criminal history data under section 13.87; juvenile offender data under section 299C.095; warrant information data under section 299C.115; incarceration data under section 299C.14; conditional release data under section 241.065; and diversion program data under section 299C.46, subdivision

5.

The public defender has access to data under this section, whether accessed via CrimNet the integrated search service as defined in section 13.873 or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; confidential arrest warrant indices data under section 13.82, subdivision 19; or data systems maintained by a prosecuting attorney. The public defender has access to the data at no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

Sec. 54. **[611A.0393] CRIME ALERTS; VIOLENT CRIMES; DISABLED ACCESS.**

If a law enforcement agency provides a crime alert to citizens within its jurisdiction, the alerts and any accompanying documents must be in a form that a disabled person can access with commercially available text-based screen reader software. Any contact information provided by a citizen requesting a crime alert is private data on individuals as defined in section 13.02.

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

Sec. 55. **[611A.203] DOMESTIC FATALITY REVIEW TEAMS.**

Subdivision 1. **Domestic fatality review teams; purpose.** A judicial district may establish a domestic fatality review team to review domestic violence deaths that have occurred in the district. The team may review cases in which prosecution has been completed or the prosecutorial authority has decided not to pursue the case. The purpose of the review team is to assess domestic violence deaths in order to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eliminate the incidence of domestic violence and resulting fatalities.

Subd. 2. **Definition of domestic violence death.** "Domestic violence death" means a homicide or suicide under any of the following circumstances:

- (1) the alleged perpetrator and victim resided together at any time;
- (2) the alleged perpetrator and victim have a child in common, regardless of whether they were married or lived together at any time;
- (3) the alleged perpetrator and victim were married, separated, or divorced;
- (4) the alleged perpetrator and victim had a sexual relationship or a significant romantic relationship;
- (5) the alleged perpetrator had been stalking the victim;
- (6) the homicide victim lived in the same household, was present in the workplace of, was in proximity of, or was related by blood or affinity to a victim who experienced or was threatened with domestic abuse by the alleged perpetrator;
- (7) the victim or the perpetrator was a child of a person in a relationship that is described within

this definition; or

(8) any other circumstances that the domestic fatality review team decides fall within the parameters of its mission.

"Domestic violence death" must be interpreted broadly to give the domestic fatality review team discretion to review fatalities that have occurred both directly and peripherally to domestic relationships.

Subd. 3. **Membership.** (a) The chief judge, in consultation with the family violence coordinating council, shall appoint the members of the domestic fatality review team. Membership must reflect a commitment to diversity and relevant professional experience. The review team members must include:

- (1) the medical examiner;
- (2) a judicial court officer (judge or referee);
- (3) a county and city attorney and a public defender;
- (4) the county sheriff and a peace officer;
- (5) a representative from family court services and the department of corrections;
- (6) a physician familiar with domestic violence issues;
- (7) a representative from district court administration and the domestic abuse service center;
- (8) a public citizen representative or a representative from a civic organization;
- (9) a mental health professional; and
- (10) domestic violence advocates or shelter workers.

(b) There must be at least three domestic violence advocates or shelter workers on the domestic fatality review team. No two members may represent the same agency. Members representing advocates or shelters must be selected by the advocacy community. At least one position must be designated for a minority representative and one position must rotate in order to include an advocate from the community in which the fatality under review took place.

(c) The domestic fatality review team may also invite other relevant persons to serve on an ad hoc basis and participate as full members of the review team for a particular review. These persons may include, but are not limited to:

- (1) individuals with particular expertise that would be helpful to the review panel; or
- (2) representatives of organizations or agencies that had contact with or provided services to the homicide victim, or to the alleged perpetrator, a victim who experienced or was threatened with domestic abuse by the alleged perpetrator, or a family member of one of those individuals.

Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect, review, and analyze death certificates and death data, including investigative reports, medical and counseling records, victim service records, employment records, child abuse reports, or other information concerning domestic violence deaths, survivor interviews and surveys, and other information

deemed by the team as necessary and appropriate concerning the causes and manner of domestic violence deaths.

(b) The review team has access to the following not public data, as defined in section 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement investigative data under section 13.82; autopsy records and coroner or medical examiner investigative data under section 13.83; hospital, public health, or other medical records of the victim under section 13.384; records under section 13.46, created by social service agencies that provided services to the victim, the alleged perpetrator, or another victim who experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment records under section 626.556, relating to the victim or a family or household member of the victim. Access to medical records under this paragraph also includes records governed by sections 144.291 to 144.298.

(c) As part of any review, the domestic fatality review team may compel the production of other records by applying to the district court for a subpoena, which will be effective throughout the state according to the Rules of Civil Procedure.

Subd. 5. **Confidentiality; data privacy.** A person attending a domestic fatality review team meeting may not disclose what transpired at the meeting, except to carry out the purposes of the review team or as otherwise provided in this subdivision. The review team may disclose the names of the victims in the cases it reviewed. The proceedings and records of the review team are confidential data as defined in section 13.02, subdivision 3, or protected nonpublic data as defined in section 13.02, subdivision 13, regardless of their classification in the hands of the person who provided the data, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a county agency, arising out of the matters the team is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review team. This section does not limit a person who presented information before the review team or who is a member of the panel from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding, a person may not be questioned about the person's good faith presentation of information to the review team or opinions formed by the person as a result of the review team meetings.

Subd. 6. **Immunity.** Members of the domestic fatality advisory board, members of the domestic fatality review team, and members of each review panel, as well as their agents or employees, are immune from claims and are not subject to any suits, liability, damages, or any other recourse, civil or criminal, arising from any act, proceeding, decision, or determination undertaken or performed or recommendation made by the domestic fatality review team, provided they acted in good faith and without malice in carrying out their responsibilities. Good faith is presumed until proven otherwise and the complainant has the burden of proving malice or a lack of good faith. No organization, institution, or person furnishing information, data, testimony, reports, or records to the domestic fatality review team as part of an investigation is civilly or criminally liable or subject to any other recourse for providing the information.

Subd. 7. **Evaluation and report.** (a) Each domestic fatality review team shall develop a system for evaluating the effectiveness of its program and shall focus on identifiable goals and outcomes. An evaluation must include data components as well as input from individuals involved in the review process.

(b) Each fatality review team shall issue an annual report to the chairs and ranking minority members of the senate and house committees with jurisdiction over public safety issues. The report must consist of the written aggregate recommendations of the domestic fatality review team without reference to specific cases. The report must be available upon request and distributed to the governor, attorney general, supreme court, county board, and district court.

Sec. 56. Minnesota Statutes 2008, section 626.843, subdivision 1, is amended to read:

Subdivision 1. **Rules required.** The board shall adopt rules with respect to:

~~(1) the certification of peace officer training schools, programs, or courses including training schools for the Minnesota State Patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses~~ postsecondary schools to provide programs of professional peace officer education;

~~(2) minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state;~~

~~(3) minimum qualifications for coordinators and instructors at certified peace officer training schools~~ offering a program of professional peace officer education located within this state;

~~(4) minimum standards of physical, mental, and educational fitness which shall govern the recruitment admission to professional peace officer education programs and the licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota State Patrol;~~

~~(5) board-approved continuing education courses that ensure professional competence of peace officers and part-time peace officers;~~

~~(6) minimum standards of conduct which would affect the individual's performance of duties as a peace officer. These standards shall be established and published. The board shall review the minimum standards of conduct described in this clause for possible modification in 1998 and every three years after that time;~~

~~(6) minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;~~

~~(7) minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;~~

~~(8) content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course~~ (7) a set of educational learning objectives that must be met within a certified school's professional peace officer education program. These learning objectives must concentrate on the knowledge, skills, and abilities deemed essential for a peace officer. Education in these learning objectives shall be deemed ~~satisfaction~~ satisfactory

for the completion of the minimum basic training requirement;

~~(9) grading, reporting, attendance and other records, and certificates of attendance or accomplishment;~~

~~(10) the procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to clause (7), and section 626.845, subdivision 1, clause (7);~~

~~(11) (8) the establishment and use by any political subdivision or state law enforcement agency which that employs persons licensed by the board of procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984;~~

~~(12) (9) the issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626.5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency;~~

~~(13) (10) supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993;~~

~~(14) (11) citizenship requirements for full-time peace officers and part-time peace officers;~~

~~(15) (12) driver's license requirements for full-time peace officers and part-time peace officers; and~~

~~(16) (13) such other matters as may be necessary consistent with sections 626.84 to 626.863. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626.84 to 626.863.~~

Sec. 57. Minnesota Statutes 2008, section 626.843, subdivision 3, is amended to read:

Subd. 3. **Board authority.** The board may, in addition:

(1) recommend studies, surveys, and reports to be made by the executive director regarding the carrying out of the objectives and purposes of sections 626.841 to 626.863;

(2) visit and inspect any peace officer training certified school approved by the executive director that offers the professional peace officer education program or for which application for such approval certification has been made;

(3) make recommendations, from time to time, to the executive director, attorney general, and the governor regarding the carrying out of the objectives and purposes of sections 626.841 to 626.863;

(4) perform such other acts as may be necessary or appropriate to carry out the powers and duties of the board ~~as set forth in~~ under sections 626.841 to 626.863; and

(5) cooperate with and receive financial assistance from and join in projects or enter into

contracts with the federal government or its agencies for the furtherance of the purposes of Laws 1977, chapter 433.

Sec. 58. Minnesota Statutes 2008, section 626.845, subdivision 1, is amended to read:

Subdivision 1. **Powers and duties.** The board shall have the following powers and duties:

~~(1) to certify peace officers' training schools or programs administered by state, county and municipalities located within this state in whole or in part no later than 90 days after receipt of an application for certification. The reasons for noncertification of any school or program or part thereof shall be transmitted to the school within 90 days and shall contain a detailed explanation of the reasons for which the school or program was disapproved and an explanation of what supporting material or other requirements are necessary for the board to reconsider. Disapproval of a school or program shall not preclude the reapplication for certification of the school or program~~ postsecondary schools to provide programs of professional peace officer education based on a set of board-approved professional peace officer education learning objectives;

(2) to issue certificates to postsecondary schools, and to revoke such certification when necessary to maintain the objectives and purposes of sections 626.841 to 626.863;

~~(3) to certify, as qualified, instructors at peace officer training schools, and to issue appropriate certificates to such instructors;~~

~~(4) to license peace officers who have satisfactorily completed certified basic training programs, met the education and experience requirements and passed examinations as required by the board;~~

(4) to develop and administer licensing examinations based on the board's learning objectives;

~~(5) to cause studies and surveys to be made relating to the establishment, operation, and approval of state, county, and municipal peace officer training schools;~~

~~(6) to consult and cooperate with state, county, and municipal peace officer training schools continuing education providers for the development of in-service training programs for peace officers;~~

~~(7) (6) to consult and cooperate with universities, colleges, and technical colleges~~ postsecondary schools for the development of specialized courses of instruction and study in the state for peace officers and part-time peace officers in police science and police administration and improvement of professional peace officer education;

~~(8) (7) to consult and cooperate with other departments and agencies of the state and federal government concerned with peace officer standards and training;~~

~~(9) (8) to perform such other acts as may be necessary and appropriate to carry out the powers and duties as set forth in the provisions of sections 626.841 to 626.863;~~

~~(10) to coordinate the provision, on a regional basis, of skills-oriented basic training courses to graduates of certified law enforcement training schools or programs;~~

~~(11) (9) to obtain criminal conviction data for persons seeking a license to be issued or possessing a license issued by the board. The board shall have authority to obtain criminal conviction data to the full extent that any other law enforcement agency, as that term is defined by state or federal law,~~

has to obtain the data;

~~(12)~~ (10) to prepare and transmit annually to the governor a report of its activities with respect to allocation of ~~moneys~~ money appropriated to it for peace officers training, including the name ~~and address~~ of each recipient of money for that purpose, and the amount awarded, ~~and the purpose of the award;~~ and

~~(13)~~ (11) to assist and cooperate with any political subdivision or state law enforcement agency ~~which that~~ employs persons licensed by the board to establish written ~~procedures for the investigation and resolution of allegations of misconduct of policies as mandated by the state~~ procedures for the investigation and resolution of allegations of misconduct of policies as mandated by the state pertaining to persons licensed by the board, and to enforce licensing sanctions for failure to implement ~~such procedures~~ these policies.

In addition, the board may maintain data received from law enforcement agencies under section 626.87, subdivision 5, provide the data to requesting law enforcement agencies who are conducting background investigations, and maintain data on applicants and licensees as part of peace officer license data. The data that may be maintained include the name of the law enforcement agency conducting the investigation and data on the candidate provided under section 626.87, subdivision 5, clauses (1) and (2).

Sec. 59. Minnesota Statutes 2008, section 626.863, is amended to read:

626.863 UNAUTHORIZED PRACTICE.

(a) A person who is not a peace officer or part-time peace officer is guilty of a misdemeanor if the person: (1) makes a representation of being a peace officer or part-time peace officer, or (2) performs or attempts to perform an act, duty, or responsibility reserved by law for licensed peace officers and part-time peace officers.

(b) A peace officer who authorizes or knowingly allows a person to violate paragraph (a) is guilty of a misdemeanor.

(c) The board shall designate the appropriate law enforcement agency to investigate violations of this section. The attorney general shall prosecute violations of this section.

(d) A person who violates this section and who has previously been convicted of a violation of this section is guilty of a gross misdemeanor.

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

Sec. 60. Minnesota Statutes 2008, section 628.26, is amended to read:

628.26 LIMITATIONS.

(a) Indictments or complaints for any crime resulting in the death of the victim may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for a violation of section 609.25 may be found or made at any time after the commission of the offense.

(c) Indictments or complaints for violation of section 609.282 may be found or made at any time

after the commission of the offense if the victim was under the age of 18 at the time of the offense.

(d) Indictments or complaints for violation of section 609.282 where the victim was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within the later of nine years after the commission of the offense or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.

(f) Notwithstanding the limitations in paragraph (e), indictments or complaints for violation of sections 609.342 to 609.344 may be found or made and filed in the proper court at any time after commission of the offense, if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. If this evidence is not collected and preserved and the victim was 18 years old or older at the time of the offense, the prosecution must be commenced within nine years after the commission of the offense.

(g) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court within six years after the commission of the offense.

(h) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than \$35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(i) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(j) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

(k) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense.

(l) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

(m) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

(n) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA analysis, as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to crimes committed

on or after that date, and to crimes committed before that date if the limitations period for the crime did not expire before August 1, 2009.

Sec. 61. Minnesota Statutes 2008, section 628.69, subdivision 6, is amended to read:

Subd. 6. **Reporting of data to ~~criminal justice information system (CJIS)~~ Bureau of Criminal Apprehension.** Every county attorney who has established a pretrial diversion program under this section shall report the following information to the Bureau of Criminal Apprehension:

- (1) the name and date of birth of each diversion program participant, and any other identifying information the superintendent considers necessary;
- (2) the date on which the individual began to participate in the diversion program;
- (3) the date on which the individual is expected to complete the diversion program;
- (4) the date on which the individual successfully completed the diversion program, where applicable; and
- (5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

The superintendent shall cause the information described in this subdivision to be entered into and maintained in the criminal history file of the ~~Minnesota Criminal Justice Information System~~ as defined in section 13.87.

Sec. 62. Minnesota Statutes 2008, section 629.34, subdivision 1, is amended to read:

Subdivision 1. **Peace officers.** (a) A peace officer, as defined in section 626.84, subdivision 1, clause (c), who is on or off duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40, may arrest a person without a warrant as provided under paragraph (c).

(b) A part-time peace officer, as defined in section 626.84, subdivision 1, clause (d), who is on duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40 may arrest a person without a warrant as provided under paragraph (c).

(c) A peace officer or part-time peace officer who is authorized under paragraph (a) or (b) to make an arrest without a warrant may do so under the following circumstances:

- (1) when a public offense has been committed or attempted in the officer's presence;
- (2) when the person arrested has committed a felony, although not in the officer's presence;
- (3) when a felony has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it;
- (4) upon a charge based upon reasonable cause of the commission of a felony by the person arrested;
- (5) under the circumstances described in clause (2), (3), or (4), when the offense is a gross misdemeanor violation of section 609.485, subdivision 4, paragraph (a), clause (3), as applies to

a person who escapes from custody on an allegation or adjudication of a delinquent act, 609.52, 609.595, 609.631, 609.749, or 609.821; or

(6) under circumstances described in clause (2), (3), or (4), when the offense is a nonfelony violation of a restraining order or no contact order previously issued by a court.

(d) To make an arrest authorized under this subdivision, the officer may break open an outer or inner door or window of a dwelling house if, after notice of office and purpose, the officer is refused admittance.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to persons escaping from custody on or after that date.

Sec. 63. Minnesota Statutes 2008, section 629.341, subdivision 1, is amended to read:

Subdivision 1. **Arrest.** Notwithstanding section 629.34 or any other law or rule, a peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that within the preceding ~~12~~ 24 hours the person has committed domestic abuse, as defined in section 518B.01, subdivision 2. The arrest may be made even though the assault did not take place in the presence of the peace officer.

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

Sec. 64. **[630.125] DEFENDANT; NOTICE OF LOSS OF VOTING RIGHTS UPON CONVICTION AND INCARCERATION.**

For felony-level offenses, at the time of arraignment, prior to the court's acceptance of a plea from the defendant, the court must notify the defendant that a guilty plea or conviction for a felony-level offense that results in incarceration will result in a loss of the defendant's right to vote until the defendant's release from incarceration.

Sec. 65. **FINANCIAL CRIMES TASK FORCE TRANSITION.**

(a) The appointing authorities under Minnesota Statutes, section 299A.681, subdivision 2, shall complete the new appointments required under that section by August 1, 2009.

(b) The members of the Minnesota Financial Crimes Task Force appointed to the task force by the Financial Crimes Oversight Council as provided in 2008 Minnesota Statutes, section 299A.681, subdivision 3, shall continue to serve on the task force until their successors have been appointed by the commissioner of public safety.

Sec. 66. **LICENSE REINSTATEMENT DIVERSION PILOT PROGRAM.**

Subdivision 1. **Establishment.** An eligible city may establish a license reinstatement diversion pilot program for holders of class D drivers' licenses who have been charged with violating Minnesota Statutes, section 171.24, subdivision 1 or 2, but have not yet entered a plea in the proceedings. An individual charged with driving after revocation under Minnesota Statutes, section 171.24, subdivision 2, is eligible for diversion only if the revocation was due to a violation of Minnesota Statutes, section 169.791; 169.797; 169A.52; 169A.54; or 171.17, subdivision 1, paragraph (a), clause (6). An individual who is a holder of a commercial driver's license or who has committed an offense in a commercial motor vehicle is ineligible for participation in the diversion pilot program.

Subd. 2. **Eligible cities.** Each of the cities of Duluth, St. Paul, South St. Paul, West St. Paul, and Inver Grove Heights is eligible to establish the license reinstatement diversion pilot program within its city.

Subd. 3. **Contract.** Notwithstanding any law or ordinance to the contrary, an eligible city may contract with a third party to create and administer the diversion program.

Subd. 4. **Diversions of individual.** A prosecutor for a participating city may determine whether to accept an individual for diversion, and in doing so shall consider:

(1) whether the individual has a record of driving without a valid license or other criminal record, or has previously participated in a diversion program;

(2) the strength of the evidence against the individual, along with any mitigating factors; and

(3) the apparent ability and willingness of the individual to participate in the diversion program and comply with its requirements.

Subd. 5. **Diversions driver's license.** (a) Notwithstanding any law to the contrary, the commissioner of public safety may issue a diversion driver's license to a person who is a participant in a pilot program for diversion, following receipt of an application and payment of:

(1) the reinstatement fee under Minnesota Statutes, section 171.20, subdivision 4, by a participant whose driver's license has been suspended;

(2) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2, paragraph (a), by a participant whose driver's license has been revoked under Minnesota Statutes, section 169.791; 169.797; or 171.17, subdivision 1, paragraph (a), clause (6); or

(3) the reinstatement fee under Minnesota Statutes, section 171.29, subdivision 2, paragraph (a), by a participant whose driver's license has been revoked under Minnesota Statutes, section 169A.52 or 169A.54. The reinstatement fee and surcharge, both of which are provided under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), also must be paid during the course of, and as a condition of, the diversion program.

The diversion driver's license may bear restrictions imposed by the commissioner suitable to the licensee's driving ability or other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) Payments by participants in the diversion program of the reinstatement fee and surcharge under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), must be applied first toward payment of the reinstatement fee, and after the reinstatement fee has been fully paid, toward payment of the surcharge. Each payment that is applied toward the reinstatement fee must be credited as provided in Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), and each payment that is applied toward the surcharge must be credited as provided in Minnesota Statutes, section 171.29, subdivision 2, paragraphs (c) and (d).

Subd. 6. **Components of program.** (a) At a minimum, the diversion program must require individuals to:

(1) successfully attend and complete, at the individual's expense, educational classes that provide, among other things, information on drivers' licensure;

(2) pay, according to a schedule approved by the prosecutor, all required fees, fines, and charges, including applicable statutory license reinstatement fees and costs of participation in the program;

(3) comply with all traffic laws; and

(4) demonstrate compliance with vehicle insurance requirements.

(b) An individual who is accepted into the pilot program is eligible to apply for a diversion driver's license.

Subd. 7. **Termination of participation in diversion program.** (a) An individual's participation in the diversion program may terminate when:

(1) during participation in the program, the individual is guilty of a moving traffic violation or failure to provide vehicle insurance;

(2) the third-party administrator of the diversion program informs the court and the commissioner of public safety that the individual is no longer satisfying the conditions of the diversion; or

(3) the third-party administrator informs the court, the prosecutor, and the commissioner of public safety that the individual has met all conditions of the diversion program, including, at a minimum, satisfactory fulfillment of the components in subdivision 6, whereupon the court shall dismiss the charge or the prosecutor shall decline to prosecute.

(b) Upon termination of an individual's participation in the diversion program, the commissioner shall cancel the individual's diversion driver's license.

(c) The original charge against the individual of violation of Minnesota Statutes, section 171.24, may be reinstated against an individual whose participation in the diversion program terminates under paragraph (a), clause (1) or (2).

(d) The commissioner shall reinstate the driver's license of an individual whose participation in the diversion program terminates under paragraph (a), clause (3).

Subd. 8. **Report.** (a) By February 1, 2011, the commissioner of public safety and each eligible city that participates in the diversion program shall report to the legislative committees with jurisdiction over transportation and the judiciary concerning the results of the program. The report must be made electronically and available in print only upon request. The report must include, without limitation, the effect of the program on:

(1) recidivism rates for participants in the diversion pilot program;

(2) the number of unlicensed drivers who continue to drive in violation of Minnesota Statutes, section 171.24;

(3) payment of the fees and fines collected in the diversion pilot program to cities, counties, and the state;

(4) educational support provided to participants in the diversion pilot program; and

(5) the total number of participants in the diversion pilot program and the number of participants who have terminated from the pilot program under subdivision 7, paragraph (a), clauses (1) to (3).

(b) The report must include recommendations regarding the future of the program and any necessary legislative changes.

Subd. 9. **Sunset.** The pilot project under this section expires June 30, 2011.

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

Sec. 67. REVOCATION CENTER PILOT PROJECT; REPORT.

(a) The commissioner of corrections shall develop a pilot project for detention and supervision of persons committed to the commissioner of corrections under Minnesota Statutes, section 609.105. The proposal must address the care, custody, and programming for offenders with remaining terms of imprisonment of less than one year. The proposal must specify that eligible organizations include: (1) private vendors; (2) a county partnership; (3) nonprofit entities; or (4) any other state partnerships that have facilities in Hennepin or Ramsey Counties.

(b) The commissioner must consider the following factors in developing the proposal:

(1) type and length of programming for short-term offenders, including supervision, mental health and chemical dependency treatment options, and educational and vocational training opportunities;

(2) medical care;

(3) the transport of offenders to and from any facility;

(4) detailed current and future costs and per diems associated with the facility;

(5) admission and release procedures of the proposed facility;

(6) insurance of proposed vendor; and

(7) other factors deemed appropriate for consideration by the commissioner of corrections.

(c) By January 15, 2010, the commissioner of corrections shall report by electronic means the pilot project proposal to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over public safety policy and finance. A written copy must be made available upon request.

Sec. 68. COUNTY BASED REVOCATION CENTER PILOT PROJECT; REPORT.

(a) Dodge, Fillmore, and Olmsted Counties; Tri-County Community Corrections; Hennepin County; Ramsey County; and any other county or community corrections department that wishes to participate may develop a proposal for a pilot project for a secure residential center for the supervision of persons facing revocation of their supervised release or execution of a stayed prison sentence. The proposal must address the care, custody, and programming for offenders assigned to the facility as an intermediate sanction prior to revocation or execution of a stayed prison sentence.

(b) The counties must consider the following factors in developing the proposal:

(1) type and length of programming for offenders, including supervision, mental health and chemical dependency treatment options, and educational and employment readiness opportunities;

(2) medical care;

- (3) the transporting of offenders to and from any facility;
- (4) detailed current and future costs and per diems associated with the facility;
- (5) admission and release procedures of the facility;
- (6) intended outcomes of the pilot project; and
- (7) other factors deemed appropriate for consideration by the counties.

(c) By December 1, 2009, any county that develops a pilot project shall report by electronic means the pilot project proposal to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over public safety policy and funding. A written copy must be made available upon request.

Sec. 69. REPEALER.

Minnesota Statutes 2008, sections 244.195, subdivision 5; 299C.61, subdivision 8; 299C.67, subdivision 3; 383B.65, subdivision 2; and 403.36, subdivision 1f, are repealed."

Delete the title and insert:

"A bill for an act relating to public safety; amending statutes to reflect organizational changes in Bureau of Criminal Apprehension; changing the Financial Crimes Oversight Council to an advisory board; clarifying authority of apprehension and detention orders outside county that issued the order; specifying a retention time period for methamphetamine precursor drug logs maintained by retailers and providing that the logs are open to law enforcement inspection; expanding the solicitation of children crime to more comprehensively include soliciting through the use of newer technologies; authorizing arrest of a person who escapes from custody on an allegation or adjudication of a delinquent act; addressing the consideration of a job applicant's criminal history during the public employment hiring process; creating pilot program for driver's license reinstatement diversion for individuals charged with driving without valid license; providing the Fourth Judicial District with fiscal flexibility as to the location of court facilities; authorizing continuation of the existing domestic fatality review team in the fourth judicial district and permitting all judicial districts to create domestic fatality review teams; designating Statewide Radio Board as Minnesota's State Interoperability Executive Committee; expanding the time frame in which a peace officer can arrest a person who has committed domestic abuse; requiring crime alerts to be distributed in a format that disabled citizens can access; limiting admission of criminal history evidence in actions against private employers; expanding the trespass crime to prohibit entry into areas cordoned off by peace officers; making it a crime for a peace officer to authorize or knowingly allow another to engage in unauthorized law enforcement practices; expanding the criminal sexual conduct law's definition of sexual contact; clarifying the statute of limitations for certain criminal sexual conduct crimes; clarifying the powers and duties of the POST Board; restoring the voting rights of an individual upon release from incarceration, and requiring notice of these restored rights; authorizing courts to include pets and companion animals in protective orders; requiring development of pilot project for short-term offender commitments; authorizing counties to develop proposals for secure residential facility pilot projects; authorizing the state, MNSCU, the University of Minnesota, and cities to adopt a program requiring certain hiring practices in construction and services contracts; amending Minnesota Statutes 2008, sections 13.87, subdivision 1; 13.871, by adding a subdivision; 84.027, subdivision 17; 122A.18,

subdivision 8; 123B.03, subdivision 1; 136F.581, by adding a subdivision; 152.02, subdivision 6; 201.014, by adding a subdivision; 201.071, subdivision 1; 201.155; 204C.08, subdivision 1a; 204C.10; 244.195, subdivisions 2, 3, 4; 246.13, subdivision 2; 253B.141, subdivision 1; 299A.681; 299C.115; 299C.40, subdivision 1; 299C.46, subdivision 1; 299C.52, subdivisions 1, 3, 4; 299C.53, subdivision 1; 299C.62, subdivision 1; 299C.65, subdivisions 1, 5; 299C.68, subdivision 2; 388.24, subdivision 4; 401.025, subdivision 1; 401.065, subdivision 3a; 403.36, subdivision 2, by adding a subdivision; 480.23; 484.91, subdivision 1; 518.165, subdivision 5; 518B.01, subdivisions 6, 7; 524.5-118, subdivision 2; 609.165, subdivision 1; 609.341, subdivision 11; 609.352, subdivision 2a; 609.605, subdivision 1; 611.272; 626.843, subdivisions 1, 3; 626.845, subdivision 1; 626.863; 628.26; 628.69, subdivision 6; 629.34, subdivision 1; 629.341, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16C; 137; 181; 201; 243; 364; 471; 611A; 630; repealing Minnesota Statutes 2008, sections 244.195, subdivision 5; 299C.61, subdivision 8; 299C.67, subdivision 3; 383B.65, subdivision 2; 403.36, subdivision 1f."

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

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

H.F. No. 334: A bill for an act relating to creditor remedies; modifying garnishment instructions, forms, procedures, and exemptions; amending Minnesota Statutes 2008, sections 550.143; 550.37, subdivision 14; 551.05; 571.71; 571.72, by adding a subdivision; 571.913; 571.914; 571.925.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 550.143, is amended to read:

550.143 LEVY ON FUNDS AT A FINANCIAL INSTITUTION.

Subdivision 1. **Procedure.** When the sheriff is levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions set forth in section 550.135.

Subd. 2. **Disclosure form.** Along with the writ of execution, the notice, instructions, and the exemption notice described in subdivision 3, the sheriff shall serve upon the financial institution an execution disclosure form which must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF	JUDICIAL DISTRICT
..... (Judgment Creditor)	
against	FINANCIAL INSTITUTIONS
..... (Judgment Debtor)	EXECUTION
and	DISCLOSURE
..... (Third Party)	

On the day of,, the time of service of execution herein, there was due and owing the judgment debtor from the third party the following:

(1) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the third party.

.....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which such setoff, defense, lien, or claim is claimed. (Any indebtedness to a third party incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt is void as to the judgment creditor.)

.....

(3) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

.....

(4) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property.

.....

(5) Enter on the line below the total of lines (2), (3), and (4).

.....

(6) Enter on the line below the difference obtained (never less than zero) when line (5) is subtracted from the amount on line (1).

.....

(7) Enter on the line below 110 percent of the amount of the judgment creditor's claim which remains unpaid.

.....

(8) Enter on the line below the lesser of line (6) and line (7). You are hereby instructed to remit this amount only if it is \$10 or more.

.....

AFFIRMATION

I, (person signing Affirmation), am the third party or I am authorized by the third party to complete this nonearnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:

.....
Signature

.....
Title

.....
Telephone Number

Subd. 3. **Notice, instructions, and exemption notice.** If the levy is on funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the judgment creditor or its attorney shall provide the sheriff with a notice, instructions, and two copies of an exemption notice, which must be substantially in the form set forth below. The sheriff shall serve the notice, instructions, and both copies of the exemption notice on the financial institution, along with the writ of execution. Failure of the sheriff to serve the notice, instructions, and the exemption notices renders the levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the judgment creditor is not required to serve additional exemption notices. In that event, the execution levy shall only be effective as to the funds that were subject to the prior garnishment. Upon receipt of the writ of execution, notice, instructions, and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 110 percent of the amount remaining due on the judgment.

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Judgment Creditor)
..... (Judgment Debtor)

TO: Debtor EXEMPTION NOTICE

~~An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (Bank or other financial institution where you have an account.)~~

~~Your account balance is \$.....~~

~~The amount being held is \$.....~~

~~However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:~~

~~(1) relief based on need. This includes the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;~~

~~(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);~~

~~(3) unemployment benefits, workers' compensation, or veterans' benefits;~~

~~(4) an accident, disability, or retirement pension or annuity;~~

~~(5) life insurance proceeds;~~

~~(6) the earnings of your minor child and any child support paid to you; or~~

~~(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).~~

~~The following funds are also exempt:~~

~~(8) all earnings of a person in category (1);~~

~~(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;~~

~~(10) 75 percent of every debtor's after tax earnings; and~~

~~(11) all of a judgment debtor's after tax earnings below 40 times the federal minimum wage.~~

~~TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:~~

~~Categories (10) and (11): 20 days~~

~~Categories (8) and (9): 60 days~~

~~All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first in, first out method is used. This means money deposited first is spent first.) The money being sought by the judgment creditor is being held in your account to give you a chance to claim an exemption.~~

~~TO CLAIM AN EXEMPTION:~~

~~Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the judgment creditor's attorney. In the event that there is no attorney for the judgment creditor, then the notice shall be sent directly to the judgment creditor. The address for the judgment creditor's attorney or the judgment creditor is set forth below. **Both copies must be mailed or delivered on the same day.**~~

~~**NOTE: You may help resolve your claim faster if you send to the creditor's attorney written proof or documents that show why your money is exempt. If you have questions regarding the documents to send as proof of an exemption, call the creditor's attorney. If you do not send written proof and the creditor's attorney has questions about your exemption claim, the creditor's attorney may object to your claim which may result in a further delay in releasing your exempt funds.**~~

~~If the financial institution does not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the judgment creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.~~

~~IF YOU CLAIM AN EXEMPTION:~~

~~(1) nonexempt money can be turned over to the judgment creditor or sheriff;~~

~~(2) the financial institution will keep holding the money claimed to be exempt; and~~

~~(3) seven days after receiving your exemption claim, the financial institution will release the~~

money to you unless before then it receives an objection to your exemption claim.

~~IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:~~

~~the institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN TEN DAYS after the objection is personally served on you, or within 13 days from the date the objection is mailed to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.~~

~~MOTION TO DETERMINE EXEMPTION:~~

~~At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.~~

~~PENALTIES:~~

~~If you claim an exemption in bad faith, or if the judgment creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.~~

.....
.....
.....
.....

Name and address of (Attorney for) Judgment Creditor

~~EXEMPTION:~~

~~(a) Amount of exemption claim.~~

~~// I claim ALL the funds being held are exempt.~~

~~// I claim SOME of the funds being held are exempt.~~

The exempt amount is \$

~~(b) Basis for exemption.~~

~~Of the 11 categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:~~

.....
.....
.....

~~(If the source is a type of relief based on need, list the case number and county:~~

~~case number:~~

33RD DAY]

TUESDAY, APRIL 14, 2009

2039

county:

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named creditor or its attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the judgment creditor or judgment creditor's attorney if represented at the address indicated above.

.....
DEBTOR

DATED:

.....
.....
.....
DEBTOR-ADDRESS

.....
DEBTOR-TELEPHONE-NUMBER

Subd. 3a. Form of notice. The notice required by subdivision 3 must be provided as a separate form and must be substantially in the following form:

STATE OF MINNESOTA DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Creditor)
..... (Debtor)
..... (Financial institution)

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN LEVIED

The Creditor has frozen money in your account at your financial institution.

Your account balance is \$.....

The amount being held is \$.....

The amount being held will be frozen for 14 days from the date of this notice.

Some of your money in your account may be protected (the legal word is exempt). You may be able to get it sooner than 14 days if you act quickly and follow the instructions on the next page.

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days to have the bank unfreeze your money. If you do not follow the instructions, your financial institution will give the money to the Sheriff. If that happens and it is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 3b. Form of instructions. The instructions required by this section must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

Note: The creditor is who you owe the money to. You are the debtor.

1. Fill out both of the attached exemption forms in this packet.

If you check one of the lines, you should also give proof that shows that some or all of the money in your account is from one or more of the protected sources. Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:

Case numbers should be added to the form. Copies of documents should be sent with the form.

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE LEVY. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the sheriff.

2. Sign the exemption forms. Make one copy to keep for yourself.

3. Mail or deliver the other copies of the form by (insert date).

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

.....
(Insert name of creditor or creditor's attorney)

.....
(Insert address of creditor or creditor's attorney)

One copy goes to:

.....
(Insert name of bank)
.....

(Insert address of bank)

HOW THE PROCESS WORKS

If You Do Not Send in the Exemption Form and Bank Statements:

14 days after the date of this letter some or all of your money may be turned over to the creditor or to the sheriff.

If You Send in the Exemption Form and Bank Statements:

Any money that is NOT protected can be turned over to the sheriff.

If the Creditor Does Not Object:

The financial institution will unfreeze your money six business days after the institution gets your completed form.

If the Creditor Objects:

The money you have said is protected on the form will be held by the bank. The creditor has six business days to object (disagree) and ask the court to hold a hearing. You will receive a Notice of Objection and a Notice of Hearing.

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

You may want to talk to a lawyer for advice about this process. If you are low income you can call Legal Aid.

PENALTIES:

If you claim that your money is protected and a court decides you made that claim in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an additional amount of up to \$100. For example, it may be bad faith if you claim you receive government benefits that you do not receive.

If the creditor made a bad faith objection to your claim that your money is protected, the court can order them to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

Subd. 3c. **Form of exemption form.** The exemption form required by this subdivision must be sent as a separate form and must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

..... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Financial institution)

EXEMPTION FORM

A. HOW MUCH MONEY IS PROTECTED

. . . . I claim ALL of the money being frozen by the bank is protected.

. . . . I claim SOME of the money is protected. The amount I claim is protected is \$.....

B. WHY THE MONEY IS PROTECTED

My money is protected because I get it from one or more of the following places: (**Check all that apply**)

. . . . Government benefits

Government benefits include, but are not limited to, the following:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT

.....

LIST THE CASE NUMBER AND COUNTY

Case Number:

County:

Government benefits also include:

. . . . Social Security benefits

. . . . Unemployment benefits

.... Workers' compensation

.... Veterans benefits

If you receive any of these government benefits, include copies of any documents you have that show you receive Social Security, unemployment, workers' compensation, or veterans benefits.

.... Other assistance based on need

You may have assistance based on need from another source that is not on the list. If you do, check this box, and fill in the source of your money on the line below:

Source:.....

Include copies of any documents you have that show the source of this money.

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

.... All of your earnings (wages) are protected if:

.... You get government benefits (see list of government benefits)

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

.... You were in jail or prison in the last six months

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so you MUST send the creditor a copy of BANK STATEMENTS that show what was in your account for the 60 days right before the bank froze your money.

.... Some of your earnings (wages) are protected.

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

.... An accident, disability, or retirement pension or annuity

.... Payments to you from a life insurance policy

.... Earnings of your child who is under 18 years of age

.... Child support

.... **Money paid to you from a claim for damage or destruction of property** Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

.... **Death benefits paid to you**

I give permission to any agency that has given me cash benefits to give information about my benefits to the above-named creditor, or its attorney. The information will ONLY concern whether I get benefits or not, or whether I have gotten them in the past six months.

If I was an inmate in the last six months, I give my permission to the correctional institution to tell the above-named creditor that I was an inmate there.

YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.

I have mailed or delivered a copy of this form to:

.....
(Insert name of creditor or creditor's attorney)

.....
(Insert address of creditor or creditor's attorney)

I have also mailed or delivered a copy of this exemption form to my bank at the address listed in the instructions.

DATED:
.....

DEBTOR

.....
DEBTOR ADDRESS

.....
DEBTOR TELEPHONE NUMBER

Subd. 4. **Effect of exemption notice.** Within two business days after receipt of the writ of execution ~~and~~, notice, instructions, and two copies of the exemption ~~notices~~ notice, the financial institution shall serve upon the judgment debtor the notice, instructions, and two copies of the exemption notice. The financial institution shall serve ~~the notice~~ these forms by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the notice, instructions, and exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the sheriff within ~~seven~~ six business days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy

to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. The judgment debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice delivered to the attorney for the judgment creditor. In the event that there is no attorney for the judgment creditor, then the notice and bank statements must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the judgment creditor interposes an objection to the exemption.

Subd. 5. **Objection to exemption claim and request for hearing.** (a) An objection shall be interposed within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the written objection Notice of Objection and Notice of Hearing to the financial institution and one copy of the written objection Notice of Objection and Notice of Hearing to the judgment debtor along with a copy of the judgment debtor's claimed exemption form. ~~Both copies of an objection to an exemption claim shall be mailed or delivered on the same date.~~ The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section. The written objection Notice of Objection and Notice of Hearing must be substantially in the form specified in subdivision 7.

(b) The court administrator may charge a fee of \$1 for the filing of a Notice of Objection and Notice of Hearing. Upon the filing of a Notice of Objection and Notice of Hearing, the court administrator shall schedule the matter for hearing no sooner than five business days but no later than seven business days from the date of filing. A debtor may request continuance of the hearing by notifying the creditor and the court. The court shall schedule the continued hearing within seven days of the original hearing date.

(c) An order stating whether the debtor's funds are exempt must be issued by the court within three days of the date of the hearing.

Subd. 6. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the judgment creditor or its attorney within the specified ~~seven-day~~ six-day period, the financial institution shall retain the funds claimed to be exempt. ~~Unless the financial institution receives a request for hearing and notice of hearing from the judgment debtor asserting exemption rights within ten days after receipt of a written objection to the exemption, the funds remain subject to the execution levy as if no claim of exemption had been made and shall be remitted to the sheriff within seven days. If a request for hearing and notice of hearing to determine the validity of a claim of exemption is received by the financial institution within the period provided, it~~ The financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court or upon mutual agreement of the parties.

Subd. 7. **Form of Notice of Objection and Notice of Hearing.** (a) ~~The written objection to the judgment debtor's claim of exemption~~ Written Objection and Notice of Hearing must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

..... JUDICIAL DISTRICT

..... (Judgment Creditor)

OBJECTION TO

..... (Judgment Debtor)

EXEMPTION CLAIM

..... (Garnishee) (Third Party)

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

.....
.....

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you need to do so within ten days from the date the objection was personally served on you, or within 13 days of the date the objection was mailed to you. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court administrator's office shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the court administrator shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you, your financial institution may turn your funds over to your creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds claimed to be exempt until otherwise ordered by the court.

.....
Judgment Creditor or Attorney

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

..... JUDICIAL DISTRICT

.....
(Creditor)

CREDITOR'S NOTICE OF
OBJECTION AND NOTICE OF
HEARING ON EXEMPTION CLAIM

.....
(Debtor)

.....
(Financial Institution)

(DEBTOR)
.....

ADDRESS
.....
.....

.....
.....
.....
(CREDITOR OR CREDITOR'S ATTORNEY)

NOTICE OF HEARING

The creditor objects to your exemption claim.
This hearing is to resolve your exemption claim.

Hearing Date:
Time:
Hearing Place:

The creditor objects to your claim of exemption from levy of execution for the following reason(s):

.....
.....
.....

(Note: Bring with you to the hearing all documents and materials supporting your exemption claim. Failure to do so could delay the court's decision.)

If the creditor receives all documents and materials supporting your exemption claim before the hearing date, the creditor may agree with your exemption claim and you might still be able to avoid a hearing.

Because a court hearing will be held on your claim that your funds are protected, your financial institution will retain the funds until it receives an order from the court or upon mutual agreement between you and your creditor.

Subd. 8. ~~Request for hearing and notice for hearing.~~ The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Judgment Creditor)	REQUEST FOR HEARING
..... (Judgment Debtor)	AND
..... (Third Party)	NOTICE FOR HEARING

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of (Judgment Debtor) at the (Financial Institution).

I believe the property being held is exempt because

.....
.....

Dated:

(JUDGMENT DEBTOR)

(ADDRESS)

(DEBTOR PHONE NUMBER)

HEARING DATE:

TIME:

HEARING PLACE:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Subd. 9. **Release of funds.** At any time during the procedure specified in this section, the judgment debtor or the judgment creditor may, by a writing dated after the service of the execution, direct the sheriff or the financial institution to release the funds in question to the other party. Upon receipt of a release, the sheriff or the financial institution shall release the funds as directed.

Subd. 10. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed

\$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and, if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Sec. 2. Minnesota Statutes 2008, section 550.37, subdivision 14, is amended to read:

Subd. 14. **Public assistance.** All ~~relief~~ government assistance based on need, and the earnings or salary of a person who is a recipient of ~~relief~~ government assistance based on need, shall be exempt from all claims of creditors including any contractual setoff or security interest asserted by a financial institution. For the purposes of this chapter, ~~relief~~ government assistance based on need includes ~~MFIP, work first, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance~~ but is not limited to Minnesota family investment program, general assistance medical care, Supplemental Security Income, medical assistance, MinnesotaCare, payment of Medicare part B premiums or receipt of part D extra help, MFIP diversionary work program, work participation cash benefit, Minnesota supplemental assistance, emergency Minnesota supplemental assistance, general assistance, emergency general assistance, emergency assistance or county crisis funds, energy or fuel assistance, and food support. The salary or earnings of any debtor who is or has been an eligible recipient of ~~relief~~ government assistance based on need, or an inmate of a correctional institution shall, upon the debtor's return to private employment or farming after having been an eligible recipient of ~~relief~~ government assistance based on need, or an inmate of a correctional institution, be exempt from attachment, garnishment, or levy of execution for a period of six months after the debtor's return to employment or farming and after all public assistance for which eligibility existed has been terminated. The exemption provisions contained in this subdivision also apply for 60 days after deposit in any financial institution, whether in a single or joint account. In tracing the funds, the first-in first-out method of accounting shall be used. The burden of establishing that funds are exempt rests upon the debtor. Agencies distributing ~~relief~~ government assistance and the correctional institutions shall, at the request of creditors, inform them whether or not any debtor has been an eligible recipient of ~~relief~~ government assistance based on need, or an inmate of a correctional institution, within the preceding six months.

Sec. 3. Minnesota Statutes 2008, section 551.05, is amended to read:

551.05 ATTORNEY'S SUMMARY EXECUTION UPON FUNDS AT A FINANCIAL INSTITUTION.

Subdivision 1. **Procedure.** When levying upon funds at a financial institution, this section must be complied with, in addition to the general provisions specified in section 551.04.

Subd. 1a. **Notice, instructions, and exemption notice.** If the writ of execution is being used by

the attorney to levy funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, the attorney for the judgment creditor shall serve with the writ of execution a notice, instructions, and two copies of an exemption notice. The notice, instructions, and exemption notice must be substantially in the form set forth below. Failure of the attorney for the judgment creditor to send ~~the exemption notice~~ these forms renders the execution levy void, and the financial institution shall take no action. However, if this subdivision is being used to execute on funds that have previously been garnished in compliance with section 571.71, the attorney for judgment creditor is not required to serve an additional exemption notice. In that event, the execution levy shall only be effective as to the funds that were subject to the prior garnishment. Upon receipt of the writ of execution and exemption notices, the financial institution shall retain as much of the amount due under section 550.04 as the financial institution has on deposit owing to the judgment debtor, but not more than 100 percent of the amount remaining due on the judgment, or \$10,000, whichever is less.

Subd. 1b. Form of notice. ~~The notice informing a judgment debtor that an execution levy has been used to attach funds of the judgment debtor to satisfy a claim~~ must be a separate form and must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
County of JUDICIAL DISTRICT
..... (Judgment Creditor)	
..... (Judgment Debtor)	
TO: Judgment Debtor	EXEMPTION NOTICE

~~An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (bank or other financial institution where you have an account).~~

Your account balance is \$.....

The amount being held is \$.....

~~However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:~~

~~(1) relief based on need. This includes the Minnesota Family Investment Program (MFIP), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;~~

~~(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);~~

~~(3) unemployment benefits, workers' compensation, or veterans' benefits;~~

~~(4) an accident, disability, or retirement pension or annuity;~~

~~(5) life insurance proceeds;~~

~~(6) the earnings of your minor child and any child support paid to you; or~~

~~(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).~~

~~The following funds are also exempt:~~

~~(8) all earnings of a person in category (1);~~

~~(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;~~

~~(10) 75 percent of every judgment debtor's after tax earnings; or~~

~~(11) all of a judgment debtor's after tax earnings below 40 times the federal minimum wage.~~

~~TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:~~

~~Categories (10) and (11): 20 days~~

~~Categories (8) and (9): 60 days~~

~~All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first in, first out method is used. This means money deposited first is spent first.) The money being sought by the judgment creditor is being held in your account to give you a chance to claim an exemption.~~

~~TO CLAIM AN EXEMPTION:~~

~~Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the judgment creditor's attorney. The address for the judgment creditor's attorney is set forth below. **Both copies must be mailed or delivered on the same day.**~~

~~**NOTE: You may help resolve your claim faster if you send to the creditor's attorney written proof or documents that show why your money is exempt. If you have questions regarding the documents to send as proof of an exemption, call the creditor's attorney. If you do not send written proof and the creditor's attorney has questions about your exemption claim, the creditor's attorney may object to your claim which may result in a further delay in releasing your exempt funds.**~~

~~If they do not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the attorney for the judgment creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.~~

~~IF YOU CLAIM AN EXEMPTION:~~

~~(1) nonexempt money can be turned over to the judgment creditor or sheriff;~~

~~(2) the financial institution will keep holding the money claimed to be exempt; and~~

~~(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.~~

~~IF THE JUDGMENT CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:~~

~~the institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN TEN DAYS after the objection is personally served on you, or within 13 days from the date the objection is mailed to you. You may wish to consult an attorney at once if the judgment creditor objects to your exemption claim.~~

~~MOTION TO DETERMINE EXEMPTION:~~

~~At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.~~

~~PENALTIES:~~

~~If you claim an exemption in bad faith, or if the judgment creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.~~

.....
.....
.....
.....

Name and address of (Attorney for) Judgment Creditor

~~EXEMPTION:~~

~~(a) Amount of exemption claim.~~

~~// I claim ALL the funds being held are exempt.~~

~~// I claim SOME of the funds being held are exempt.~~

The exempt amount is \$

~~(b) Basis for exemption.~~

~~Of the 11 categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:~~

.....
.....
.....

~~(If the source is a type of relief based on need, list the case number and county:~~

~~case number:~~

~~county:~~

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named judgment creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institute within the last six months.

I have mailed or delivered a copy of the exemption notice to the judgment creditor's attorney at the address indicated above.

DEBTOR

DATED:

DEBTOR ADDRESS

DEBTOR TELEPHONE NUMBER

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

..... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Financial institution)

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN LEVIED

The Creditor has frozen money in your account at your financial institution.

Your account balance is \$.....

The amount being held is \$.....

The amount being held will be frozen for 14 days from the date of this notice.

Some of your money in your account may be protected (the legal word is exempt). You may be able to get it sooner than 14 days if you act quickly and follow the instructions on the next page.

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days to have the bank unfreeze your money. If you do not follow the instructions, your financial institution will give the money to the Creditor. If that happens and it

is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 1c. **Form of instructions.** The instructions required must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

Note: The creditor is who you owe the money to. You are the debtor.

1. Fill out both of the attached exemption forms in this packet.

If you check one of the lines, you should also give proof that shows that some or all of the money in your account is from one or more of the protected sources. Creditors may ask for a hearing if they question your exemptions. To avoid a hearing:

Case numbers should be added to the form. Copies of documents should be sent with the form.

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE LEVY. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the creditor.

2. **Sign** the exemption forms. **Make one copy to keep for yourself.**

3. **Mail or deliver** the other copies of the form by (insert date).

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

.....
(Insert name of creditor or creditor's attorney)

.....
(Insert address of creditor or creditor's attorney)

One copy goes to:

.....
(Insert name of bank)

.....
(Insert address of bank)

HOW THE PROCESS WORKS

If You Do Not Send in the Exemption Form and Bank Statements:

14 days after the date of this letter some or all of your money may be turned over to the creditor pursuant to Minnesota statute.

If You Send in the Exemption Form and Bank Statements:

Any money that is NOT protected can be turned over to the creditor.

If the Creditor Does Not Object:

The financial institution will unfreeze your money six business days after the institution gets your completed form.

If the Creditor Objects:

The money you have said is protected on the form will be held by the bank. The creditor has six business days to object (disagree) and ask the court to hold a hearing. You will receive a Notice of Objection and a Notice of Hearing.

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

You may want to talk to a lawyer for advice about this process. If you are low income you can call Legal Aid.

PENALTIES:

If you claim that your money is protected and a court decides you made that claim in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an additional amount of up to \$100. For example, it may be bad faith if you claim you receive government benefits that you do not receive.

If the creditor made a bad faith objection to your claim that your money is protected, the court can order them to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

Subd. 1d. **Form of exemption form.** The exemption form required by this subdivision must be a separate form and must be in substantially the following form:

<u>STATE OF MINNESOTA</u>	<u>DISTRICT COURT</u>
<u>COUNTY OF</u>	<u>..... JUDICIAL DISTRICT</u>
<u>..... (Creditor)</u>	
<u>..... (Debtor)</u>	
<u>..... (Financial institution)</u>	

EXEMPTION FORM

A. HOW MUCH MONEY IS PROTECTED

. . . . I claim ALL of the money being frozen by the bank is protected.

. . . . I claim SOME of the money is protected. The amount I claim is protected is \$.....

B. WHY THE MONEY IS PROTECTED

My money is protected because I get it from one or more of the following places: (Check all that apply)

. . . . **Government benefits**

Government benefits include, but are not limited to, the following:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT

.....

LIST THE CASE NUMBER AND COUNTY

Case Number:

County:

Government benefits also include:

. . . . **Social Security benefits**

. . . . **Unemployment benefits**

. . . . **Workers' compensation**

. . . . **Veterans benefits**

If you receive any of these government benefits, include copies of any documents you have that show you receive Social Security, unemployment, workers' compensation, or veterans benefits.

.... Other assistance based on need

You may have assistance based on need from another source that is not on the list. If you do, check this box, and fill in the source of your money on the line below:

Source:.....

Include copies of any documents you have that show the source of this money.

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

.... All of your earnings (wages) are protected if:

.... You get government benefits (see list of government benefits)

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

.... You were in jail or prison in the last six months

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so you MUST send the creditor a copy of BANK STATEMENTS that show what was in your account for the 60 days right before the bank froze your money.

.... Some of your earnings (wages) are protected.

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

.... An accident, disability, or retirement pension or annuity

.... Payments to you from a life insurance policy

.... Earnings of your child who is under 18 years of age

.... Child support

.... Money paid to you from a claim for damage or destruction of property. Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

.... Death benefits paid to you.

I give permission to any agency that has given me cash benefits to give information about my benefits to the above-named creditor, or its attorney. The information will ONLY concern whether I get benefits or not, or whether I have gotten them in the past six months.

If I was an inmate in the last six months, I give my permission to the correctional institution to tell the above-named creditor that I was an inmate there.

YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.

I have mailed or delivered a copy of this form to:

.....

(Insert name of creditor or creditor's attorney)

.....

(Insert address of creditor or creditor's attorney)

I have also mailed or delivered a copy of this exemption form to my bank at the address listed in the instructions.

DATED:

DEBTOR

.....

DEBTOR ADDRESS

.....

DEBTOR TELEPHONE NUMBER

Subd. 2. **Effect of exemption notice.** Within two business days after receipt of the execution levy and the notice, instructions, and two copies of the exemption notices, the financial institution shall serve upon the judgment debtor the notice, instructions, and two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the funds remain subject to the execution levy and shall be remitted to the judgment creditor's attorney within ~~seven~~ six business days. If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. The debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice. In the event that there is no attorney for the judgment creditor, the notice must be sent directly to the judgment creditor. Failure of the judgment debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed

to be exempt by the judgment debtor remain subject to the execution levy. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the attorney for the judgment creditor interposes an objection to the exemption.

Subd. 3. ~~Objection to exemption claim~~ **Objections and request for hearing.** An objection shall be interposed, within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the financial institution and one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the judgment debtor along with a copy of the judgment debtor's claimed exemption form. Both copies of an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section. The ~~written objection~~ Notice of Objection and Notice of Hearing form must be substantially in the form ~~specified~~ set out in subdivision 5.

The court administrator may charge a fee of \$1 for the filing of a Notice of Objection and Notice of Hearing. Upon the filing of a Notice of Objection and Notice of Hearing, the court administrator shall schedule the matter for hearing no sooner than five business days but no later than seven business days from the date of filing. A debtor may request continuance of the hearing by notifying the creditor and the court. The court shall schedule the continued hearing within seven days of the original hearing date.

An order stating whether the debtor's funds are exempt shall be issued by the court within three days of the date of the hearing.

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the judgment creditor within the specified ~~seven-day~~ six-day period, the financial institution shall retain the funds claimed to be exempt. ~~Unless the financial institution receives a request for hearing and notice of hearing from the judgment debtor asserting exemption rights within ten days after receipt of a written objection to the exemption, the funds remain subject to the execution levy as if no claim of exemption had been made and shall be remitted to the judgment creditor's attorney within seven days. If a request for hearing and notice of hearing to determine the validity of a claim of exemption is received by the financial institution within the period provided, it shall retain the funds claimed to be exempt until otherwise ordered by the court.~~ The financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, upon mutual agreement of the parties, or until the garnishment lapses pursuant to subdivision 7.

Subd. 5. **Form of Notice of Objection and Notice of Hearing.** ~~(a) The written objection to the judgment debtor's claim of exemption must be in substantially the following form:~~

STATE OF MINNESOTA	DISTRICT COURT
County of JUDICIAL DISTRICT
..... (Judgment Creditor)	OBJECTION TO
..... (Judgment Debtor)	EXEMPTION CLAIM

..... (Garnishee) (Third Party)

The judgment creditor objects to your claim for exemption from garnishment, levy of execution, order for attachment (strike inapplicable language) for the following reason(s):

.....
.....
.....

Because of this objection, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you need to do so within ten days from the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you. You may request a hearing by completing the attached form and filing it with the court administrator.

1. The court administrator's office shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

2. Upon the filing of a Request for Hearing, the court administrator shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.

3. If it is possible that the financial institution might not receive the request mailed from the court administrator within ten days, then you may want to personally deliver a copy of the request to the financial institution after you have filed your request with the court.

4. An order stating whether your funds are exempt shall be issued by the court within three days of the date of the hearing.

If you do not file a Request for Hearing within ten days of the date the objection was personally served on you, or within 13 days from the date the objection was mailed to you, your financial institution may turn your funds over to your judgment creditor.

If you file a Request for Hearing and your financial institution receives it within ten days of the date it received this objection, your financial institution will retain your funds claimed to be exempt until otherwise ordered by the court.

.....
Attorney for Judgment Creditor

(a) The Written Objection and Notice of Hearing must be in substantially the following form:

STATE OF MINNESOTA
COUNTY OF
.....

DISTRICT COURT
..... JUDICIAL DISTRICT

(Creditor)

CREDITOR'S NOTICE OF
OBJECTION AND NOTICE OF
HEARING ON EXEMPTION CLAIM

.....

(Debtor)

.....

(Financial Institution)

(DEBTOR)

.....

ADDRESS

.....

.....

.....

.....

.....

(CREDITOR OR CREDITOR'S ATTORNEY)

.....

NOTICE OF HEARING

The creditor objects to your exemption claim.
This hearing is to resolve your exemption claim.

Hearing Date:

.....

Time:

.....

Hearing Place:

.....

The creditor objects to your claim of exemption from levy of execution for the following
reason(s):

.....

.....

.....

**(Note: Bring with you to the hearing all documents and materials supporting your
exemption claim. Failure to do so could delay the court's decision.)**

If the creditor receives all documents and materials supporting your exemption claim before the
hearing date, the creditor may agree with your exemption claim and you might be able to avoid a
hearing.

Because a court hearing will be held on your claim that your funds are protected, your financial institution will retain the funds until it receives an order from the court or upon mutual agreement between you and the creditor.

Subd. 6. ~~Request for hearing and notice for hearing.~~ The request for hearing accompanying the objection notice must be in substantially the following form:

STATE OF MINNESOTA	DISTRICT COURT
County of JUDICIAL DISTRICT
..... (Judgment Creditor)	REQUEST FOR HEARING
..... (Judgment Debtor)	AND NOTICE FOR HEARING
..... (Garnishee) (Third Party)	

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of (Judgment Debtor) at the (Financial Institution).

I believe the property being held is exempt because

.....
.....

Dated:
.....
(JUDGMENT DEBTOR)

.....
(ADDRESS)

HEARING DATE: TIME:

HEARING PLACE:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim and objection. Failure to do so could delay the court's decision.)

Subd. 7. **Release of funds.** At any time during the procedure specified in this section, the judgment debtor or the attorney for the judgment creditor may, by a writing dated after the service of the writ of execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 8. **Subsequent proceedings; bad faith claims.** If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a

penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Sec. 4. Minnesota Statutes 2008, section 571.71, is amended to read:

571.71 GARNISHMENT; WHEN AUTHORIZED.

As an ancillary proceeding to a civil action for the recovery of money, a creditor may issue a garnishment summons as provided in this chapter against any third party in the following instances:

(1) at the time the civil action is commenced or at any time after the commencement of the civil action, but before the entry of a judgment, if the court orders the issuance of the garnishment summons pursuant to section 571.93;

(2) at any time ~~40~~ 45 days or more after service of the summons and complaint upon the debtor in the civil action when a judgment by default could have, but has not, been entered pursuant to rule 55.01(a) of the Minnesota Rules of Civil Procedure for the District Courts. Garnishment under this clause is effective only after the Notice of Intent to Garnish form in section 571.72, subdivision 11, and the Exemption form in section 571.72, subdivision 10, are served on the debtor at any time 20 or more days after the service of the Summons and Complaint and, in addition, the creditor does not receive an Answer from the debtor within 25 days after service of the Notice of Intent to Garnish. The Notice of Intent to Garnish form and the Exemption form must be substantially in the form set forth in section 571.72, subdivisions 10 and 11. If a creditor sends a Notice of Intent to Garnish form to a debtor under this clause, the creditor cannot obtain a default judgment against the debtor under rule 55.01(a) of the Minnesota Rules of Civil Procedure for the District Court until 25 days after the service of the Notice of Intent to Garnish form. No filing of a pleading or other documents by the creditor is required to issue a garnishment summons under this clause; however, the creditor must comply with the service requirement of section 571.72, subdivision 4; or

(3) at any time after entry of a money judgment in the civil action.

Sec. 5. Minnesota Statutes 2008, section 571.72, is amended by adding a subdivision to read:

Subd. 10. Exemption notice for prejudgment garnishment.

EXEMPTION NOTICE

IMPORTANT NOTICE: A garnishment summons may be served on your employer, bank, or other third parties without any further court proceeding or notice to you. See the attached Notice of Intent to Garnish for more information.

The following money and wages may be protected (the legal word is exempt) from garnishment:

1. Financial institutions/bank

Some of the money in your account may be protected because you receive government benefits from one or more of the following places:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance or county crisis funds,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance,

Social Security benefits,

Unemployment benefits,

Workers' compensation,

Veterans benefits.

Sending the creditor's attorney (or creditor, if no attorney) a copy of BANK STATEMENTS that show what was in your account for the past 60 days may give the creditor enough information about your exemption claim to avoid a garnishment.

2. Earnings

All or some of your earnings may be completely protected from garnishment if:

All of your earnings (wages) may be protected if:

You get government benefits (see list of government benefits)

You currently receive other assistance based on need

You have received government benefits in the last six months

You were in jail or prison in the last six months

Your wages are only protected for 60 days after they are deposited in your account so **it would be helpful if you immediately send the undersigned creditor a copy of BANK STATEMENTS** that show what was in your account **for the past 60 days.**

Some of your earnings (wages) may be protected if:

If all of your earnings are not exempt, some of your earnings may still be protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

The money from the following are also exempt for 20 days after they are deposited in your account.

An accident, disability, or retirement pension or annuity

Payments to you from a life insurance policy

Earnings of your child who is under 18 years of age

Child support

Money paid to you from a claim for damage or destruction of property. Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.

Death benefits paid to you.

YOU WILL BE ABLE TO CLAIM THESE EXEMPTIONS WHEN YOU RECEIVE A NOTICE. You will get the notice at least ten days BEFORE a wage garnishment. BUT if the creditor garnishes your bank account, you will not get the notice until AFTER the account has been frozen. IF YOU BELIEVE THE MONEY IN YOUR BANK ACCOUNT OR YOUR WAGES ARE EXEMPT, YOU SHOULD IMMEDIATELY CONTACT THE PERSON BELOW. YOU SHOULD TELL THEM WHY YOU THINK YOUR ACCOUNT OR WAGES ARE EXEMPT TO SEE IF YOU CAN AVOID GARNISHMENT.

Creditor

Creditor address

Creditor telephone number

Sec. 6. Minnesota Statutes 2008, section 571.72, is amended by adding a subdivision to read:

Subd. 11. **Notice of intent to garnish.** The notice of intent to garnish must be in substantially the following form:

IMPORTANT! READ THIS CAREFULLY!

NOTICE OF INTENT TO GARNISH

..... against
Plaintiff/Creditor Defendant/Debtor

Your money, property, or earnings are in danger of being garnished because you did not send a written "Answer" to the Summons and Complaint served on you over 20 days ago.

There may not be a case filed in court, BUT because you did not send a written "Answer" the creditor may serve a garnishment summons on your employer, bank, or other third parties. This means that your money or wages can be garnished (held or taken). Under Minnesota law, this can happen any time 20 days after the date you receive this notice.

There will be **NO COURT HEARING** or any further notice to you prior to a garnishment if you do nothing. There may not be a file open at the Clerk of the Court's office. **There are things you can do to avoid a garnishment, but you must act quickly.**

Please read these instructions carefully. **You have 20 days** to do one of the following:

1. **Send an Answer.** If you do not think you owe the money or if you have a legal reason that you did not pay, send a written "Answer" to the Summons and Complaint. Your "Answer" should tell the creditor why you think you do not owe some or all of the money. Contact a lawyer if you do not know what to do, need help with an answer, or have any questions about the debt.

2. **Claim an Exemption.** Even if you do not have a defense to the complaint, some of your money may be protected (the legal word is exempt) from garnishment. This means it is protected and cannot be taken. The creditor will send you a form to claim these exemptions at a later time, **but you can possibly avoid the garnishment** by contacting the person below **immediately** to claim your exemption. Attached to this notice is a list of exemptions you may be able to claim.

3. **If you do not have a defense and your money is not exempt** you can **call** the person below before the 20 days are up and try to set up a payment plan that works for both you and your creditor. You can contact the person below at any time to try to work out a payment plan, but if you wait too long or cannot agree on a payment plan, they may garnish your wages, bank accounts, or assets.

If you do not do any of these things, your money can be garnished. The creditor can garnish your wages, bank accounts, or other assets. They do not have to go to court to let you know when they start taking your money.

Dated:
LAW FIRM
By:
Attorney, #
Attorneys for Plaintiff
Address
Telephone

571.911 EXEMPTION NOTICE; DUTY OF FINANCIAL INSTITUTION.

If the garnishment summons is used to garnish funds of a debtor who is a natural person and if the funds to be garnished are held on deposit at a financial institution, the creditor shall serve with the garnishee summons a notice, instructions, and two copies of an exemption notice. The notice, instructions, and exemption notices must be substantially in the ~~form~~ forms set forth in section 571.912. Failure of the creditor to send the exemption notice renders the garnishment void, and the financial institution shall take no action. Upon receipt of the garnishment summons and exemption notices, the financial institution shall retain as much of the amount under section 571.73 as the financial institution has on deposit owing to the debtor, but not more than 110 percent of the creditor's claim.

Sec. 8. Minnesota Statutes 2008, section 571.912, is amended to read:

571.912 FORM OF NOTICE, INSTRUCTIONS, AND EXEMPTION NOTICE.

Subdivision 1. **Form of notice.** The notice, instructions, and exemption notice informing a debtor that ~~an order for attachment, a garnishment summons, or levy by execution~~ has been used to attach funds of the debtor to satisfy a claim must be a separate notice and must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Creditor)	
..... (Debtor)	
TO: Debtor	EXEMPTION NOTICE

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Creditor)	
..... (Debtor)	
..... (Financial institution)	

IMPORTANT NOTICE

YOUR FUNDS HAVE BEEN GARNISHED

The Creditor has frozen money in your account at your financial institution.

Your account balance is \$.....

The amount being held is \$.....

The amount being held will be frozen for 14 days from the date of this notice.

Some of your money in your account may be protected (the legal word is exempt). You may be able to get it sooner than 14 days if you act quickly and follow the instructions on the next page.

The attached exemption form lists some different sources of money in your account that may be protected. If your money is from one or more of these sources, place a check on the line on the form next to the sources of your money. If it is from one of these sources, the Creditor cannot take it.

BUT, you must follow the instructions and return the exemption form and copies of your bank statements from the last 60 days to have the bank unfreeze your money. If you do not follow the instructions or your Creditor gets an order from the court or writ of execution, your financial institution will give the money to your Creditor. If that happens and it is protected, you can still get it back from the Creditor later, but that is not as easy to do as filling in the form now.

See next pages for instructions and the exemption form.

Subd. 2. **Form of instructions.** The instructions required must be in a separate form and must be substantially in the following form:

INSTRUCTIONS

Note: The creditor is who you owe the money to. You are the debtor.

1. Fill out **both** of the attached exemption forms in this packet.

If you check one of the lines, you should also give proof that shows that some or all of the money in your account is from one or more of the protected sources. Creditors may ask for a hearing if they question your exemptions.

To avoid a hearing:

Case numbers should be added to the form.

Copies of documents should be sent with the form.

NOTICE: YOU MUST SEND TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) COPIES OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS BEFORE THE GARNISHMENT. Keep a copy of your bank statements in case there are questions about your claim. If you do not send to the creditor's attorney (or to the creditor, if no attorney) bank statements with your exemption claim, the financial institution may release your money to the creditor once the creditor gives the financial institution a court order directing it to turn over the funds.

2. **Sign** the exemption forms. **Make one copy to keep for yourself.**

3. **Mail or deliver** the other copies of the form by (insert date).

BOTH COPIES MUST BE MAILED OR DELIVERED THE SAME DAY.

One copy of the form and the copies of your bank statements go to:

.....
(Insert name of creditor or creditor's attorney)

.....
(Insert address of creditor or creditor's attorney)

One copy goes to:

.....
(Insert name of bank)

.....
(Insert address of bank)

HOW THE PROCESS WORKS

If You Do Not Send in the Exemption Form and Bank Statements:

14 days after the date of this letter some or all of your money may be turned over to the creditor once they get an order from the court telling the financial institution to do this.

If You Send in the Exemption Form and Bank Statements:

Any money that is NOT protected can be turned over to the creditor once they get an order from the court.

If the Creditor Does Not Object:

The financial institution will unfreeze your money six business days after the institution gets your completed form.

If the Creditor Objects:

The money you have said is protected on the form will be held by the bank. The creditor has six business days to object (disagree) and ask the court to hold a hearing. You will receive a Notice of Objection and a Notice of Hearing.

The financial institution will hold the money until a court decides whether your money is protected or not. Some reasons a creditor may object are because you did not send copies of your bank statements or other proof of the benefits you received. Be sure to include these when you send your exemption form.

You may want to talk to a lawyer for advice about this process. If you are low income you can call Legal Aid.

PENALTIES:

If you claim that your money is protected and a court decides you made that claim in bad faith, the court can order you to pay costs, actual damages, attorney fees, and an additional amount of up to \$100. For example, it may be bad faith if you claim you receive government benefits that you do not receive.

If the creditor made a bad faith objection to your claim that your money is protected, the court can order them to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

Subd. 3. **Exemption notice.** The exemption notice must be a separate form and must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

..... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Financial institution)

EXEMPTION FORM

A. HOW MUCH MONEY IS PROTECTED

.... I claim ALL of the money being frozen by the bank is protected.

.... I claim SOME of the money is protected. The amount I claim is protected is \$.....

B. WHY THE MONEY IS PROTECTED

My money is protected because I get it from one or more of the following places: **(Check all that apply)**

.... Government benefits

Government benefits include, but are not limited to, the following:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

LIST SOURCE(S) OF FUNDING IN YOUR ACCOUNT

.....

LIST THE CASE NUMBER AND COUNTY

Case Number:

County:

Government benefits also include:

.... **Social Security benefits**

.... **Unemployment benefits**

.... **Workers' compensation**

.... **Veterans benefits**

If you receive any of these government benefits, include copies of any documents you have that show you receive Social Security, unemployment, workers' compensation, or veterans benefits.

.... **Other assistance based on need**

You may have assistance based on need from another source that is not on the list. If you do, check this box, and fill in the source of your money on the line below:

Source:.....

Include copies of any documents you have that show the source of this money.

EARNINGS

ALL or SOME of your earnings (wages) may also be protected.

.... **All of your earnings (wages) are protected if:**

.... You get government benefits (see list of government benefits)

.... You currently receive other assistance based on need

.... You have received government benefits in the last six months

.... You were in jail or prison in the last six months

If you check one of these lines, your wages are only protected for 60 days after they are deposited in your account so you MUST send the creditor a copy of BANK STATEMENTS that show what was in your account for the 60 days right before the bank froze your money.

.... **Some of your earnings (wages) are protected.**

If all of your earnings are not exempt, then some of your earnings are still protected for 20 days after they were deposited in your account. The amount protected is the larger amount of:

75 percent of your wages (after taxes are taken out); or

(insert the sum of the current federal minimum wage) multiplied by 40.

OTHER EXEMPT FUNDS

The money from the following are also completely protected after they are deposited in your account.

- An accident, disability, or retirement pension or annuity
- Payments to you from a life insurance policy
- Earnings of your child who is under 18 years of age
- Child support
- Money paid to you from a claim for damage or destruction of property. Property includes household goods, farm tools or machinery, tools for your job, business equipment, a mobile home, a car, a musical instrument, a pew or burial lot, clothes, furniture, or appliances.
- Death benefits paid to you.

I give permission to any agency that has given me cash benefits to give information about my benefits to the above-named creditor, or its attorney. The information will ONLY concern whether I get benefits or not, or whether I have gotten them in the past six months.

If I was an inmate in the last six months, I give my permission to the correctional institution to tell the above-named creditor that I was an inmate there.

YOU MUST SIGN AND SEND THIS FORM BACK TO THE CREDITOR'S ATTORNEY (OR TO THE CREDITOR, IF NO ATTORNEY) AND THE BANK. REMEMBER TO INCLUDE A COPY OF YOUR BANK STATEMENTS FOR THE PAST 60 DAYS. FILL IN THE BLANKS BELOW AND GO BACK TO THE INSTRUCTIONS TO MAKE SURE YOU DO IT CORRECTLY.

I have mailed or delivered a copy of this form to:

.....
 (Insert name of creditor or creditor's attorney)

.....
 (Insert address of creditor or creditor's attorney)

I have also mailed or delivered a copy of this exemption form to my bank at the address listed in the instructions.

DATED:

DEBTOR

DEBTOR ADDRESS

DEBTOR TELEPHONE NUMBER

~~An order for attachment, garnishment summons, or levy of execution (strike inapplicable language) has been served on (bank or other financial institution) where you have an account.~~

Your account balance is \$.....

The amount being held is \$.....

However, all or a portion of the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) relief based on need. This includes the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance;

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance);

(3) unemployment benefits, workers' compensation, or veterans' benefits;

(4) an accident, disability, or retirement pension or annuity;

(5) life insurance proceeds;

(6) the earnings of your minor child and any child support paid to you; or

(7) money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).

The following funds are also exempt:

(8) all earnings of a person in category (1);

(9) all earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months;

(10) 75 percent of every debtor's after tax earnings; and

(11) all of a debtor's after tax earnings below 40 times the federal minimum wage.

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (10) and (11): 20 days

Categories (8) and (9): 60 days

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first in, first out method is used. This means money deposited first is spent first.) The money being sought by the creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of the attached exemption claim form to the institution which sent you this notice and mail or deliver one copy to the creditor's attorney. In the event that there is no attorney for the creditor, then such notice shall be sent directly to the creditor. The address for the creditor's attorney or the creditor is set forth below. **Both copies must be mailed or delivered on the same day.**

~~NOTE: You may help resolve your claim faster if you send to the creditor's attorney written proof or documents that show why your money is exempt. If you have questions regarding the documents to send as proof of an exemption, call the creditor's attorney. If you do not send written proof and the creditor's attorney has questions about your exemption claim, the creditor's attorney may object to your claim which may result in a further delay in releasing your exempt funds.~~

~~If they do not get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be held until it is decided.~~

~~IF YOU CLAIM AN EXEMPTION:~~

- ~~(1) nonexempt money can be turned over to the creditor or sheriff;~~
- ~~(2) the financial institution will keep holding the money claimed to be exempt; and~~
- ~~(3) seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.~~

~~IF THE CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:~~

~~The institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN TEN DAYS after the objection is personally served on you, or within 13 days from the date the objection is mailed to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.~~

~~MOTION TO DETERMINE EXEMPTION:~~

~~At any time after your funds have been held, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.~~

~~PENALTIES:~~

~~If you claim an exemption in bad faith, or if the creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.~~

.....

~~Name and address of (Attorney for)
Judgment Creditor~~

~~EXEMPTION:~~

~~(If you claim an exemption complete the following):~~

~~(a) Amount of exemption claim.~~

~~// I claim ALL the funds being held are exempt.~~

~~// I claim SOME of the funds being held are exempt.~~

~~The exempt amount is \$.....~~

~~(b) Basis for exemption.~~

~~Of the eleven categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:~~

~~.....
.....
.....~~

~~(If the source is a type of relief based on need, list the case number and county:~~

~~case number:~~

~~county:~~

~~I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named creditor or its attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institute within the last six months.~~

~~I have mailed or delivered a copy of the exemption notice to the creditor's attorney at the address indicated above.~~

DATED:

.....
DEBTOR

.....
DEBTOR ADDRESS

.....
DEBTOR TELEPHONE NUMBER

Sec. 9. Minnesota Statutes 2008, section 571.913, is amended to read:

571.913 EFFECT OF EXEMPTION NOTICE.

Within two business days after receipt of the garnishment summons, ~~and the notice, instructions, and two copies of the exemption notices notice,~~ the notice, instructions, and two copies of the exemption notice. The financial institution shall serve ~~the notice, instructions, and two copies of the exemption notice.~~ the notice, instructions, and two copies of the exemption notice. by first class mail to the last known address of the debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the debtor, the funds remain subject to the garnishment summons. If the debtor elects

to claim an exemption, the debtor shall complete the exemption ~~notice~~ notices, sign ~~it~~ them under penalty of perjury, and deliver one copy to the financial institution and one copy to the attorney for the creditor within 14 days of the date postmarked on the correspondence mailed to the debtor containing the exemption notices. The debtor is also required to include copies of bank statements for the prior 60 days with the exemption notice delivered to the attorney for the creditor. In the event that there is no attorney for the creditor, then the notice and the bank statements must be sent directly to the creditor. Failure of the debtor to deliver the executed exemption notice or copies of the required bank statements for the prior 60 days does not constitute a waiver of a claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the debtor remain subject to the garnishment summons. All money claimed to be exempt shall be released to the debtor upon the expiration of ~~seven~~ six business days after the date postmarked on the envelope containing the executed exemption notice mailed to the financial institution, or the date of personal delivery of the executed exemption notice to the financial institution, unless within that time the creditor interposes an objection to the exemption.

Sec. 10. Minnesota Statutes 2008, section 571.914, is amended to read:

571.914 OBJECTION TO EXEMPTION CLAIM.

Subdivision 1. **Objections and request for hearing.** An objection shall be interposed, within six business days of receipt by the creditor of an exemption claim from the debtor, by mailing or delivering one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the financial institution and one copy of the ~~written objection~~ Notice of Objection and Notice of Hearing to the debtor. A Request for Hearing and Notice of Hearing form must accompany each copy of the ~~written objection.~~

~~Both copies of an objection to an exemption claim must be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.~~

~~The ~~written objection, and Request for Hearing~~ Notice of Objection and Notice of Hearing, ~~form~~ must be substantially in the ~~forms~~ form set out in ~~subdivisions~~ subdivision 2 and 3.~~

~~The court shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Notice of Objection and Notice of Hearing. Upon the filing of a Request for Notice of Objection and Notice of Hearing, the court administrator shall schedule the matter for hearing no sooner than five business days but no later than five seven business days from the date of filing. ~~The court administrator shall immediately send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first-class mail. A debtor may request continuance of the hearing by notifying the creditor and the court. The court shall schedule the continued hearing within seven days of the original hearing date.~~~~

An order stating whether the debtor's funds are exempt shall be issued by the court within three days of the date of the hearing.

Subd. 2. **Form of notice of objection and notice of hearing.** ~~(a) The written objection to the debtor~~ Written Objection and Notice of Hearing must be in substantially the following form:

STATE OF MINNESOTA

DISTRICT COURT

33RD DAY]

TUESDAY, APRIL 14, 2009

2077

COUNTY OF

..... JUDICIAL DISTRICT

..... (Creditor)

..... (Debtor)

..... (Garnishee)

CREDITOR'S NOTICE OF OBJECTION
TO AND NOTICE OF HEARING ON
EXEMPTION CLAIM

(CREDITOR OR CREDITOR'S ATTORNEY)

NOTICE OF HEARING

The creditor objects to your exemption claim.
This hearing is to resolve your exemption claim.

Hearing Date:

.....

Time:

.....

Hearing Place:

.....

The creditor objects to your claim for of exemption from garnishment, ~~levy of execution, order for attachment (strike inapplicable language)~~ for the following reason(s):

.....
.....
.....

(Note: Bring with you to the hearing all documents and materials supporting your exemption claim. Failure to do so could delay the court's decision.)

If the creditor receives all documents and materials supporting your exemption claim before the hearing date, the creditor may agree with your claim and you can avoid a hearing.

~~Because of this objection, a court hearing will be held on your claim that your funds are protected, your financial institution will retain the funds you claimed to be exempt for an additional ten days. If you wish to request a hearing on your exemption claim, you need to do so within ten days from the date the objection was personally served on you, or within 13 days of the date the objection was mailed to you. You may request a hearing by completing the attached form and filing it with the court administrator until it receives an order from the court.~~

~~1. The court shall provide clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.~~

~~2. Upon the filing of a Request for Hearing, the clerk shall schedule the matter for a hearing no~~

HEARING DATE: TIME:

HEARING PLACE:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim. Failure to do so could delay the court's decision.)

Subd. 4. **Duties of financial institution if objection is made to exemption claim.** Upon receipt of a ~~written objection~~ Notice of Objection and Notice of Hearing from the creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. ~~Unless the financial institution receives a request for hearing from the debtor asserting exemption rights within ten days after receipt of the written objection to the exemption, the funds remain subject to the garnishment summons as if no claim of exemption had been made. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided,~~ The financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, upon mutual agreement of the parties, or until the garnishment lapses pursuant to section 571.79.

Sec. 11. Minnesota Statutes 2008, section 571.925, is amended to read:

571.925 FORM OF NOTICE.

The ten-day notice informing a debtor that a garnishment summons may be used to garnish the earnings of an individual must be substantially in the following form:

STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF JUDICIAL DISTRICT
..... (Creditor)	
against	
..... (Debtor)	GARNISHMENT EXEMPTION
and	NOTICE AND NOTICE OF
..... (Garnishee)	INTENT TO GARNISH EARNINGS

PLEASE TAKE NOTICE that a garnishment summons or levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Some or all of your earnings are exempt from garnishment. If your earnings are garnished, your employer must show you how the amount that is garnished from your earnings was calculated. You have the right to request a hearing if you claim the garnishment is incorrect.

Your earnings are completely exempt from garnishment if you are now a recipient of ~~relief assistance~~ based on need, if you have been a recipient of relief assistance based on need within the last six months, or if you have been an inmate of a correctional institution in the last six months.

~~Relief based on need includes the Minnesota Family Investment Program (MFIP), Emergency Assistance (EA), Work First Program, Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Minnesota~~

~~Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (SSI), and Energy Assistance.~~

Assistance based on need includes, but is not limited to:

MFIP - Minnesota family investment program,

MFIP Diversionary Work Program,

Work participation cash benefit,

GA - general assistance,

EA - emergency assistance,

MA - medical assistance,

GAMC - general assistance medical care,

EGA - emergency general assistance,

MSA - Minnesota supplemental aid,

MSA-EA - MSA emergency assistance,

Food Support,

SSI - Supplemental Security Income,

MinnesotaCare,

Medicare part B premium payments,

Medicare part D extra help,

Energy or fuel assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the creditor's attorney and the garnishee.

You may wish to contact the attorney for the creditor in order to arrange for a settlement of the debt or contact an attorney to advise you about exemptions or other rights.

PENALTIES

(1) Be advised that even if you claim an exemption, a garnishment summons may still be served on your employer. If your earnings are garnished after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.

(2) **HOWEVER, BE WARNED** if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed \$100.

(3) If after receipt of this notice, you in bad faith take action to frustrate the garnishment, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the creditor for costs and reasonable attorney's fees plus an amount not to exceed \$100.

Dated:

 (Attorney for) Creditor

 Address

 Telephone

DEBTOR'S EXEMPTION CLAIM NOTICE

I hereby claim that my earnings are exempt from garnishment because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

.....
 Program Case Number (if known) County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

.....
 Program Case Number (if known) County

(3) I have been an inmate of a correctional institution within the last six months. (Specify the correctional institution and location.)

.....
 Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named creditor or the creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institution within the last six months. I have mailed or delivered a copy of this form to the creditor or creditor's attorney.

.....
 Date Debtor

 Address

 Debtor Telephone Number

STATE OF MINNESOTA
COUNTY OF
 (Creditor)

DISTRICT COURT
..... JUDICIAL DISTRICT

..... (Debtor)
 (Financial
 institution)"

Renumber the sections in sequence

Amend the title numbers accordingly

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

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

S.F. No. 1503: A bill for an act relating to human services; changing child welfare provisions; amending Minnesota Statutes 2008, sections 13.46, subdivision 2; 256.01, subdivision 14b; 259.52, subdivisions 2, 6; 260.012; 260.93; 260B.007, subdivision 7; 260B.157, subdivision 3; 260B.198, subdivision 1; 260C.007, subdivisions 18, 25; 260C.151, subdivisions 1, 2, 3, by adding a subdivision; 260C.163, by adding a subdivision; 260C.175, subdivision 1; 260C.176, subdivision 1; 260C.178, subdivisions 1, 3; 260C.201, subdivisions 1, 3, 5, 11; 260C.209, subdivision 3; 260C.212, subdivisions 1, 2, 4, 4a, 5, 7; 260D.02, subdivision 5; 260D.03, subdivision 1; 260D.07; 484.76, subdivision 2; Laws 2008, chapter 361, article 6, section 58; proposing coding for new law in Minnesota Statutes, chapter 260C; repealing Minnesota Statutes 2008, section 260C.209, subdivision 4.

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

Page 44, after line 20, insert:

"Sec. 5. Minnesota Statutes 2008, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record or to obtain medical or social history information from a birth parent, or both. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human services' agent or licensed child-placing agency when known, or the commissioner of human services when the agency is not known in writing of the request by the adopted person.

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

Sec. 6. Minnesota Statutes 2008, section 259.89, subdivision 2, is amended to read:

Subd. 2. **Search.** (a) Within six months after receiving notice of the request of the adopted person, the commissioner of human services' agent or a licensed child-placing agency shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. ~~All~~ Data regarding communications under this subdivision are confidential pursuant to data on individuals as defined in section 13.02, subdivision 3.

(b) For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services when it is determined to be reasonable by the commissioner; otherwise contact shall be by certified mail or telephone.

(c) If the adopted person requests disclosure of original birth record information, the employee or agent of the licensed child-placing agency shall notify the birth parent of the request and the requirements of this section. If the birth parent does not want the information disclosed, the birth parent must file an affidavit with the commissioner of health within 90 days following the contact stating that the information on the birth record should not be disclosed. If the adopted person requests medical or social history information, the employee or agent of the licensed child-placing agency shall notify the birth parent that the birth parent must complete an updated nonidentifying medical history form and return it to the child-placing agency within 90 days if information on the original birth record is not to be disclosed and of the option of providing social history information, if requested. If the notification is made in person or by telephone, the information may be provided orally to the person making the contact. Medical and social history information obtained under this subdivision must be in the form prepared under section 259.43.

(d) The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

- (1) the nature of the information requested by the adopted person;
- (2) the date of the request of the adopted person;
- (3) ~~the right of requirement that the parent to must file,~~ within ~~30~~ 90 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;
- (4) the right of the parent to file a consent to disclosure with the commissioner of health at any time; and
- (5) the effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

EFFECTIVE DATE; APPLICATION. This section is effective July 1, 2009, and applies to searches conducted on or after that date.

Sec. 7. Minnesota Statutes 2008, section 259.89, is amended by adding a subdivision to read:

Subd. 2a. Medical and social history information. (a) This subdivision applies if an adopted person requests medical or social history information under subdivision 1, and a birth parent has filed an affidavit objecting to the release of the original birth record to the adopted person or the adopted person is unable to locate a birth parent. Within five days of receipt of the request, the commissioner of health shall provide written notice of the request to the commissioner of human services or the licensed child-placing agency, if known. Within six months after receiving the request, the commissioner of human services or the licensed child-placing agency shall make reasonable efforts to notify each parent identified in the original birth record of the request, of

the requirement that the birth parent complete an updated nonidentifying medical history form and return it to the commissioner or the child-placing agency within 90 days, and of the option of providing social history information, if requested. If the notification is made in person or by telephone, the information may be provided orally to the person making the contact.

(b) The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search under this subdivision. A licensed child-placing agency in this state shall cooperate with the commissioner of human services in efforts to notify an identified parent. Data regarding communications under this subdivision are confidential data on individuals as defined in section 13.02, subdivision 3.

(c) For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person, if it is determined to be practicable by the commissioner, or by mail or telephone if personal contact is not practicable. The contact must be by an employee or agent of the licensed child-placing agency that processed the adoption or another licensed child-placing agency designated by the commissioner of human services.

(d) Medical and social history information obtained under this subdivision must be in the form prepared under section 259.43.

CONTINGENT EFFECTIVE DATE. This section is effective July 1, 2010, if a law repealing Minnesota Statutes, section 259.89, subdivision 2, is enacted during the 2010 legislative session.

Sec. 8. Minnesota Statutes 2008, section 259.89, subdivision 4, is amended to read:

Subd. 4. Release of information after notice. (a) Except as provided in paragraph (b), if, within six months, the commissioner of human services' agent or licensed child-placing agency documents to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 34-91 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 34-91 days both of the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.

(b) If the person was adopted before August 1, 1977, and the only contact with a birth parent under this section was by certified mail, the commissioner of health must not disclose information on that parent in the adopted person's original birth record unless that parent has filed an unrevoked consent to disclosure with the commissioner."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the second semicolon, insert "modifying provisions governing adoption records;"

Amend the title numbers accordingly

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

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

S.F. No. 806: A bill for an act relating to financial institutions; regulating payday lending; providing penalties and remedies; amending Minnesota Statutes 2008, sections 47.60, subdivisions 4, 6; 53.09, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 47.

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

Page 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2008, section 47.60, subdivision 6, is amended to read:

Subd. 6. **Penalties for violation.** A person ~~or the person's members, officers, directors, agents, and employees~~ who ~~violate~~ violates or ~~participate~~ participates in the violation of any of the provisions of this section ~~may be~~ is liable in the same manner as in section ~~56.19~~ 47.601, subdivision 7.

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

Page 3, delete line 21 and insert:

"(3) a provision limiting class actions against a consumer short-term lender for violations of subdivision 3 or for making consumer short-term loans:

(i) without a required license issued by the commissioner; or

(ii) in which interest rates, fees, charges, or loan amounts exceed those allowable under section 47.59, subdivision 6, or 47.60, subdivision 2, other than by de minimis amounts if no pattern or practice exists."

Page 4, delete subdivision 4

Page 4, line 6, delete "5" and insert "4"

Page 4, line 23, delete "6" and insert "5"

Page 4, line 27, delete "7" and insert "6"

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

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

Page 5, line 6, delete "8" and insert "7"

Page 5, line 8, delete "9" and insert "8"

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

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

S.F. No. 1695: A bill for an act relating to data practices; amending the regulation of business

screening services; amending Minnesota Statutes 2008, section 332.70, subdivisions 1, 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 332.70, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section:

(a) "Business screening service" means a person regularly engaged in the business of collecting, assembling, evaluating, or disseminating ~~criminal record information~~ records on individuals for a fee. Business screening service does not include a government entity, ~~as defined in section 13.02,~~ or the news media.

(b) "Conviction" has the meaning given in section 609.02, subdivision 5.

(c) "Criminal record" means a public record originating from a government entity in Minnesota or a Minnesota court of an arrest, citation, prosecution, criminal proceeding, or conviction. "Criminal proceeding" does not include a written court opinion.

(d) "Government entity" has the meaning given in section 13.02.

Sec. 2. Minnesota Statutes 2008, section 332.70, subdivision 2, is amended to read:

Subd. 2. **Criminal records.** A business screening service must not disseminate a criminal record unless the record has been updated within the previous ~~month~~ 90 days.

Sec. 3. Minnesota Statutes 2008, section 332.70, subdivision 3, is amended to read:

Subd. 3. **Correction and deletion of records.** (a) If the completeness or accuracy of a criminal record maintained by a business screening service is disputed by the individual who is the subject of the record, the screening service shall, without charge, investigate the disputed record. In conducting an investigation, the business screening service shall review and consider all relevant information submitted by the subject of the record with respect to the disputed record to determine whether the record maintained by the business screening service accurately reflects the content of the record maintained by the government entity or the court.

(b) ~~If the disputed record is found to be inaccurate or incomplete, the business screening service shall promptly correct the record.~~ If, upon investigation, the business screening service determines that the record does not accurately reflect the content of the record maintained by the government entity or the court, the business screening service shall correct the disputed record to accurately reflect the content of that record. If the disputed record is found to be sealed, expunged, or the subject of a pardon, the business screening service shall promptly delete the record.

(c) A business screening service may terminate an investigation of a disputed record if the business screening agency reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and provide a description of any information required to investigate the disputed record.

(d) The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the agency receives notice of the dispute from the subject of the record.

Sec. 4. Minnesota Statutes 2008, section 332.70, subdivision 4, is amended to read:

Subd. 4. **Date and notice required.** If a business screening service that disseminates a criminal record that is collected on or after July 1, 2009, it must include the date when the record was collected and by the business screening service. A business screening service that disseminates a criminal record must include a notice that the information may include criminal records that have been expunged, sealed, or otherwise have become inaccessible to the public since that date.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to data practices; amending the regulation of business screening services; amending Minnesota Statutes 2008, section 332.70, subdivisions 1, 2, 3, 4."

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 Moua from the Committee on Judiciary, to which was referred

S.F. No. 1452: A bill for an act relating to the safe at home program; specifying applicability; eliminating certain persons from eligibility; providing a remedy for violation or refusal to recognize a designated address; prohibiting public release of certain court records; amending Minnesota Statutes 2008, sections 5B.01; 5B.02; 5B.07, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5B.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 5B.02, is amended to read:

5B.02 DEFINITIONS.

(a) For purposes of this chapter and unless the context clearly requires otherwise, the definitions in this section have the meanings given them.

(b) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(c) "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in section 524.5-102.

(d) "Domestic violence" means an act as defined in section 518B.01, subdivision 2, paragraph

(a), and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(e) "Eligible person" means an adult, a minor, or an incapacitated person, as defined in section 524.5-102 for whom there is good reason to believe (i) that the eligible person is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for his or her safety or the safety of persons on whose behalf the application is made. A person registered or required to register as a predatory offender under section 243.166 or 243.167, or the law of another jurisdiction, is not an eligible person.

(f) "Mail" means first class letters and flats delivered via the United States Postal Service, including priority, express, and certified mail, and excluding packages, parcels, periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a government agency.

(g) "Program participant" means an individual certified as a program participant under section 5B.03.

(h) "Stalking" means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

Sec. 2. Minnesota Statutes 2008, section 5B.07, subdivision 1, is amended to read:

Subdivision 1. **Classification of data.** (a) Data related to applicants, eligible persons, and program participants are private data on individuals as defined by section 13.02, subdivision 12. A consent for release of the address from an applicant, eligible person, or program participant is not effective.

(b) A program participant's name and address maintained by a local government entity in connection with an active investigation or inspection of an alleged health code, building code, fire code, or city ordinance violation allegedly committed by the program participant are private data on individuals as defined in section 13.02.

Sec. 3. **[5B.10] DISPLAY AND RELEASE OF NAME PROHIBITED.**

Subdivision 1. **Display by landlord.** If a program participant has notified the program participant's landlord in writing that the individual is a program participant and of the requirements of this section, a local ordinance or the landlord must not require the display of the program participant's name at an address otherwise protected under this chapter.

Subd. 2. **Release to local government entity.** A landlord may provide a program participant's name to a local government entity only in response to a specific request made in connection with an active investigation or inspection of an alleged health, building, or fire code violation, or a violation of a city ordinance allegedly committed by the program participant.

Sec. 4. Minnesota Statutes 2008, section 13.805, is amended by adding a subdivision to read:

Subd. 3. **Program participants.** Data on program participants maintained by a local government entity in connection with an active investigation or inspection of an alleged health code, building code, fire code, or city ordinance violation are governed by section 5B.07, subdivision 1.

Sec. 5. EFFECTIVE DATE; APPLICABILITY.

Sections 1 to 4 are effective the day following final enactment. Section 3 applies to any actions pending or commenced on or after the date that section becomes effective."

Delete the title and insert:

"A bill for an act relating to safe at home program; excluding registered sex offenders from the program; limiting use of protected addresses by landlords and local government entities; amending Minnesota Statutes 2008, sections 5B.02; 5B.07, subdivision 1; 13.805, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5B."

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

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

S.F. No. 1890: A bill for an act relating to health; changing provisions for health information technology and infrastructure; establishing an e-health advisory committee; changing electronic health records provisions; changing electronic health record system and revolving account and loan program; modifying electronic prescribing provisions; amending Minnesota Statutes 2008, sections 62J.495; 62J.496; 62J.497, subdivisions 1, 2.

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

Page 6, after line 12, insert:

"(c) The commissioner must not collect data or publish analyses that identify, or could potentially identify, individual patients. The commissioner must not collect individual patient data in identified or de-identified form."

Page 6, delete subdivision 6

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

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

S.F. No. 1712: A bill for an act relating to powers of attorney; creating an alternative statutory short form for military members who are in active service; amending Minnesota Statutes 2008, sections 523.02; 523.131; 523.16; 523.20; 523.21; 523.23, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 523.

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

Page 7, line 37, before the period, insert "outside of the state of Minnesota"

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

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

S.F. No. 431: A bill for an act relating to mental illness; prohibiting participation in clinical drug trials; amending Minnesota Statutes 2008, section 253B.095, subdivision 1.

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

Page 2, line 7, delete "and" and insert a comma

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

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

S.F. No. 747: A bill for an act relating to local government; regulating nonconforming lots in shoreland areas; amending Minnesota Statutes 2008, sections 394.36, subdivision 4, by adding a subdivision; 462.357, subdivision 1e.

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

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

S.F. No. 807: A bill for an act relating to transportation; modifying transportation goals; providing for reduction of vehicle miles traveled and greenhouse gas emissions; amending Minnesota Statutes 2008, sections 174.01, subdivisions 1, 2; 174.02, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 174.

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

Page 2, line 6, strike "throughout" and insert "to all counties in"

Page 2, line 28, delete "TRAVELED" and insert "DRIVEN"

Page 2, line 29, delete "Vehicle miles traveled" and insert "Per capita vehicle miles driven"

Page 2, line 33, delete "achieve" and insert "have the goal of achieving"

Page 2, line 34, delete "vehicle miles traveled." and insert "per capita vehicle miles driven. The implemented policies shall not mandate that persons within the meaning of section 645.44 reduce their vehicle miles traveled."

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

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

S.F. No. 1654: A bill for an act relating to pupil transportation; authorizing a school district to report actual costs instead of allocated costs for contracted services; clarifying certain field trip costs; broadening resident district involvement when a student is placed in another district for care and treatment; increasing the maximum weight of a type A-I school bus; modifying seat back and tailpipe equipment standards; amending Minnesota Statutes 2008, sections 123B.92, subdivisions 1, 5; 125A.15; 125A.51; 169.011, subdivision 71; 169.443, subdivision 9; 169.4501, subdivision 1; 169.4503, subdivision 20, by adding a subdivision; 169.454, subdivision 13; 169A.03, subdivision 23; 171.01, subdivision 22; 171.02, subdivisions 2, 2a; 171.321, subdivisions 1, 4, 5.

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

Page 1, delete section 1

Page 7, delete section 3

Page 8, delete section 4

Page 10, delete section 5

Page 14, line 24, after "2007" insert "through January 1, 2012"

Page 18, line 26, after "bus" insert "or multifunction school activity bus"

Re-number the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete lines 3 to 4

Page 1, line 5, delete everything before "increasing"

Amend the title numbers accordingly

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

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

S.F. No. 639: A bill for an act relating to crimes; providing penalty for careless driving resulting in death; providing for revocation of violator's driver's license; amending Minnesota Statutes 2008, sections 169.13, by adding a subdivision; 171.17, subdivision 1; 171.30, subdivision 2a.

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

Page 1, delete lines 18 to 20

Pages 1 to 2, delete sections 2 and 3

Amend the title as follows:

Page 1, line 3, delete everything before "amending"

Amend the title numbers accordingly

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

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

S.F. No. 624: A bill for an act relating to railroads; forgiving state loans made to Rock and Nobles Counties.

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

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

S.F. No. 738: A bill for an act relating to drivers' licenses; prohibiting commissioner of public safety from complying with Real ID Act.

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

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

S.F. No. 1514: A bill for an act relating to public safety; increasing criminal penalties for certain sex trafficking offenses; adding sex trafficking to the definition of crime of violence; amending Minnesota Statutes 2008, sections 609.281, subdivision 5; 609.321, subdivision 7a; 609.322; 611A.036, subdivision 7; 624.712, 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 2008, section 299A.785, subdivision 2, is amended to read:

Subd. 2. ~~**Report and annual Publication.**~~ ~~(a) By September 1, 2006, the commissioner of public safety shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding a summary of its findings. This report shall include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.~~

~~(b) The commissioner shall gather, and compile, and publish annually statistical data on the extent and nature of trafficking in Minnesota. The commissioner shall publish the data every two years. This annual publication shall be available to the public and include, to the extent possible, the information to be collected in subdivision 1 and any other information the commissioner finds relevant to the issue of trafficking in Minnesota.~~

Sec. 2. **[299A.794] HUMAN TRAFFICKING; CIVIL LIABILITY.**

(a) A trafficking victim may bring an action against a person who violates section 609.282, 609.283, or 609.322. A victim who prevails in an action brought under this section shall be awarded the greater of actual damages, including damages for emotional distress, or:

- (1) \$5,000 if the victim was trafficked for a period of less than one month;
- (2) \$10,000 if the victim was trafficked for a period of one month or more, but less than three months;
- (3) \$15,000 if the victim was trafficked for a period of three months or more, but less than six months;
- (4) \$20,000 if the victim was trafficked for a period of six months or more, but less than one year; or
- (5) \$20,000 per year for each year the victim was trafficked, if the victim was trafficked for a period of one year or more.

A victim prevailing in an action brought under this section is also entitled to an award of punitive damages, costs, disbursements, litigation costs, and reasonable attorney fees.

(b) No criminal action needs to be filed or pending resulting from the same occurrence for an award to be made under this section.

(c) An action for damages under paragraph (a) must be commenced not later than six years after the cause of action arises or not later than one year from the date the trafficking victim bringing the action is free from human traffickers, whichever is later.

(d) For the purposes of this section, "person" means an individual, partnership, organization, company, association, or corporation.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to causes of action arising on or after that date.

Sec. 3. [340A.5055] POSTING OF CERTAIN NOTICE REQUIRED.

(a) A retail licensee shall display a sign containing the following notice in a public and conspicuous location if it has been cited by the local licensing authority as a location that has been subject to complaints to local law enforcement for sex trafficking activity after the effective date of this act:

"WARNING: Engaging in labor trafficking or sex trafficking is a crime under Minnesota Statutes, sections 609.282 and 609.322. Call the Minnesota Crisis and Tip Line at 1-888-772-3324 or 651-291-8810. You may remain anonymous."

(b) The sign must be in the form and in the languages as specified by the human trafficking task force created under section 299A.7955, and approved by the commissioner of public safety.

(c) A retail licensee shall be permitted to remove the required sign if the licensee has not been the subject of a complaint for sex trafficking activity for two years from when first required to post the sign. In addition, the local licensing authority, upon request of a retail establishment that has changed ownership, may permit the establishment to remove the required sign.

Sec. 4. Minnesota Statutes 2008, section 609.281, subdivision 5, is amended to read:

Subd. 5. **Labor trafficking.** "Labor trafficking" means:

(1) the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, ~~whether a United States citizen or foreign national~~, for the purpose of:

~~(1) (i) debt bondage or forced labor or services;~~

~~(2) (ii) slavery or practices similar to slavery; or~~

~~(3) (iii) the removal of organs through the use of coercion or intimidation; or~~

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

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

Sec. 5. Minnesota Statutes 2008, section 609.321, subdivision 7, is amended to read:

Subd. 7. **Promotes the prostitution of an individual.** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

- (1) solicits or procures patrons for a prostitute; ~~or~~
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; ~~or~~
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; ~~or~~
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; ~~or~~
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual; ~~or~~
- ~~(7) engages in the sex trafficking of an individual.~~

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

Sec. 6. Minnesota Statutes 2008, section 609.321, subdivision 7a, is amended to read:

Subd. 7a. **Sex trafficking.** "Sex trafficking" means:

- (1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or
- (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

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

Sec. 7. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 13. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

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

Sec. 8. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 14. **Prior qualified human trafficking-related offense.** A "prior qualified human trafficking-related offense" means a conviction or delinquency adjudication within the ten years from the discharge from probation or parole immediately preceding the current offense for a violation of or an attempt to violate section 609.322, subdivision 1 (solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree); 609.322, subdivision 1a (solicitation,

inducement, and promotion of prostitution; sex trafficking in the second degree); 609.282 (labor trafficking); or 609.283 (unlawful conduct with respect to documents in furtherance of labor or sex trafficking).

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

Sec. 9. Minnesota Statutes 2008, section 609.322, is amended to read:

**609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION;
SEX TRAFFICKING.**

Subdivision 1. ~~Individuals under age 18~~ **Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.** (a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than ~~\$40,000~~ \$50,000, or both:

- (1) solicits or induces an individual under the age of 18 years to practice prostitution;
- (2) promotes the prostitution of an individual under the age of 18 years; ~~or~~
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or
- (4) engages in the sex trafficking of an individual under the age of 18 years.

(b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than \$60,000, or both, if one or more of the following aggravating factors are present:

- (1) the offender has committed a prior qualified human trafficking-related offense;
- (2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;
- (3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or
- (4) the offense involved more than one sex trafficking victim.

Subd. 1a. ~~Other offenses~~ **Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.** Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than ~~\$30,000~~ \$40,000, or both:

- (1) solicits or induces an individual to practice prostitution; ~~or~~
- (2) promotes the prostitution of an individual; ~~or~~
- (3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or
- (4) engages in the sex trafficking of an individual.

Subd. 1b. **Exceptions.** Subdivisions 1, clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. **Aggregation of cases.** Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

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

Sec. 10. Minnesota Statutes 2008, section 609.324, subdivision 2, is amended to read:

Subd. 2. ~~Solicitation or acceptance of solicitation to engage in Prostitution in public place; penalty.~~ Whoever solicits or accepts a solicitation to engage for hire in sexual penetration or sexual contact intentionally does any of the following while in a public place may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both. is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires or offers or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision while acting as a patron must, at a minimum, be sentenced to pay a fine of at least \$1,500.

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

Sec. 11. Minnesota Statutes 2008, section 609.324, subdivision 3, is amended to read:

Subd. 3. ~~Engaging in, hiring, or agreeing to hire adult to engage in General prostitution crime; penalties.~~ (a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or above; or

(2) hires or offers or agrees to hire an individual 18 years of age or above to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this clause or clause (1) paragraph while acting as a patron must, at a

minimum, be sentenced to pay a fine of at least \$500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction ~~may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both~~ for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of a ~~gross misdemeanor violation of this subdivision~~ violating this paragraph while acting as a patron, must, at a minimum, be sentenced as follows:

- (1) to pay a fine of at least \$1,500; and
- (2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

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

Sec. 12. Minnesota Statutes 2008, section 609.324, subdivision 5, is amended to read:

Subd. 5. **Use of motor vehicle to patronize prostitutes; driving record notation.** (a) When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the commission of the offense and whether the person has previously been convicted of violating this section or section 609.322. If the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding along with an indication of whether the person has previously been convicted of a prostitution offense to the commissioner of public safety who shall record the finding on the person's driving record. Except as provided in paragraph (b), the finding is classified as private data on individuals, as defined in section 13.02, subdivision 12, but is accessible for law enforcement purposes.

(b) If the person has previously been convicted of a violation of this section or section 609.322, the finding is public data.

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

Sec. 13. Minnesota Statutes 2008, section 611A.036, subdivision 7, is amended to read:

Subd. 7. **Definition.** As used in this section, "violent crime" means a violation or attempt to violate any of the following: section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.2241 (knowing transfer of communicable disease); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.235 (use of drugs to injure

or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.2672 (assault of an unborn child in the third degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.282 (labor trafficking); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.561, subdivision 1, (arson in the first degree; dwelling); 609.582, subdivision 1, paragraph (a) or (c), (burglary in the first degree; occupied dwelling or involving an assault); or 609.66, subdivision 1e, paragraph (b), (drive-by shooting; firing at or toward a person, or an occupied building or motor vehicle).

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

Sec. 14. Minnesota Statutes 2008, section 617.87, is amended to read:

617.87 RELEASE OF PROPERTY.

If, after an order of abatement has been entered, the owner appears and pays the costs of the action and files a bond in an amount determined by the court, but not to exceed \$50,000, conditioned that the owner will immediately abate the nuisance for a period of one year, the court may, if satisfied of the owner's good faith, order the release of the building or portion of it which is subject to the order of abatement. If the building or portion of it that is subject to the order of abatement is a hotel, motel, or similar establishment that rents overnight lodging to the public and the nuisance was prostitution or prostitution-related activity that involved sex trafficking, as defined in section 609.321, subdivision 7a, the release must require the owner to post a notice in the form specified in section 340A.5055 in each unit and portion of the building that was subject to the order of abatement. If the premises are released, for each day during the term of the bond that the owner knowingly permits any part of the premises to be used for any activity which was the basis of the abatement order or fails to post the notice, if required, the owner shall forfeit \$1,000 under the bond. Forfeiture under the bond does not relieve the owner from prosecution for contempt. Release of the property pursuant to this section does not release it from an injunction issued under section 617.83 or any other judgment, penalty, lien, or liability to which it may be subject by law.

Sec. 15. Minnesota Statutes 2008, section 624.712, subdivision 5, is amended to read:

Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.229 (crimes committed for the benefit

of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or authorized agent of the owner, theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1, 2, or 3 (burglary in the first through third degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment and stalking); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

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

Sec. 16. **REPEALER.**

Minnesota Statutes 2008, section 609.284, subdivision 2, is repealed.

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

Delete the title and insert:

"A bill for an act relating to public safety; authorizing commissioner of public safety to gather and compile data on human trafficking every two years; increasing criminal penalties for certain promoting prostitution/sex trafficking offenses; expanding the sex trafficking and labor trafficking crimes; adding the promotion of prostitution/sex trafficking crime to the firearm law's definition of crime of violence and the victim rights law's definition of violent crime; expanding the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; requiring posting of notices related to human trafficking at establishments that sell alcoholic beverages at retail and certain lodging establishments that have been involved in prostitution-related activity; modifying civil liability for labor and sex trafficking crimes; amending Minnesota Statutes 2008, sections 299A.785, subdivision 2; 609.281, subdivision 5; 609.321, subdivisions 7, 7a, by adding a subdivision; 609.322; 609.324, subdivisions 2, 3, 5; 611A.036, subdivision 7; 617.87; 624.712, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 299A; 340A; repealing Minnesota Statutes 2008, section 609.284, subdivision 2."

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

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

was referred

S.F. No. 613: A bill for an act relating to insurance; authorizing and regulating the issuance of certificates of insurance; amending Minnesota Statutes 2008, section 60K.46, by adding a subdivision; 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 2, delete subdivisions 6 and 7 and insert:

"Subd. 6. **Opinion letters.** A licensed insurance producer may not issue, in lieu of a certificate, an agent's opinion letter or other correspondence that is inconsistent with this section."

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

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

S.F. No. 474: A bill for an act relating to consumer protection; prohibiting retail sales of toys that have been recalled for safety reasons; proposing coding for new law in Minnesota Statutes, chapter 325F.

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

Delete everything after the enacting clause and insert:

"Section 1. **[325F.135] UNSAFE RECALLED TOYS; PROHIBITION ON SALE.**

(a) No commercial retailer shall sell in this state a toy that the commercial retailer knows at the time of the sale has been recalled for any safety-related reason by an agency of the federal government or by the toy's manufacturer, wholesaler, distributor, or importer.

(b) For purposes of this section, "toy" means an item designed primarily for the purpose of play activity by children under the age of 12 years and "recalled" excludes corrective actions that involve safety alerts, parts replacement, or consumer repairs.

(c) This section shall be enforced under sections 325F.14 to 325F.16.

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

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

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

S.F. No. 1742: A bill for an act relating to insurance; increasing funeral and burial expense benefits under the Minnesota No-Fault Automobile Insurance Act; amending Minnesota Statutes 2008, section 65B.44, subdivision 4.

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

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

was referred

S.F. No. 1711: A bill for an act relating to commerce; regulating motor vehicle sales and distribution; amending Minnesota Statutes 2008, sections 80E.03, by adding a subdivision; 80E.09, subdivisions 1, 3; 80E.12; 80E.135; 80E.14, by adding a subdivision.

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

Page 1, line 22, reinstate the stricken language and delete the new language

Page 2, lines 18 to 24, reinstate the stricken language and delete the new language

Page 2, line 32, delete everything after "line-make"

Page 2, line 33, delete "that value determined" and delete ": (1)"

Page 2, line 34, delete everything after "nonrenewal"

Page 2, delete line 35 and insert ", provided that this paragraph does not apply with respect to a dealer's franchise for distribution of recreational vehicles as defined in section 168.002, subdivision 27."

Page 4, line 20, delete the comma and insert "and that the acquisition or addition is not unreasonable in light of all existing circumstances;"

Page 5, line 25, delete "honor"

Page 5, line 26, delete everything before "offer"

Page 5, delete line 29 and insert "This act is effective the day following final enactment."

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

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

S.F. No. 1910: A bill for an act relating to commerce; providing for the licensing and regulation of certain persons; establishing prelicense and continuing education requirements; amending Minnesota Statutes 2008, sections 45.22; 45.23; 60K.31, by adding a subdivision; 60K.36, subdivision 4, by adding a subdivision; 60K.37, by adding a subdivision; 60K.55, subdivision 2; 60K.56; 72B.02, subdivisions 2, 5, 11, by adding subdivisions; 72B.03; 72B.05; 72B.06; 72B.08, subdivisions 1, 2, 4; 72B.135, subdivisions 1, 2, 3; 82.32; 82B.05, subdivision 1; 82B.08, by adding subdivisions; 82B.09, by adding a subdivision; 82B.10; 82B.13, subdivisions 4, 5, 6; 82B.19, subdivisions 1, 2; 82B.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 45; 60K; 72B; 82; 82B; repealing Minnesota Statutes 2008, sections 72B.02, subdivision 12; 72B.04; 82B.02; Minnesota Rules, parts 2808.0100; 2808.1000; 2808.1100; 2808.1200; 2808.1300; 2808.1400; 2808.1500; 2808.1600; 2808.1700; 2808.2000; 2808.2100; 2808.6000; 2808.7000; 2808.7100; 2809.0010; 2809.0020; 2809.0030; 2809.0040; 2809.0050; 2809.0060; 2809.0070; 2809.0080; 2809.0090; 2809.0100; 2809.0110; 2809.0120; 2809.0130; 2809.0140; 2809.0150; 2809.0160; 2809.0170; 2809.0180; 2809.0190; 2809.0200; 2809.0210; 2809.0220.

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

Page 1, line 26, strike "Minnesota Rules, chapter 2809" and insert "this chapter"

Page 5, line 15, after "deliver" insert "(1) independently, or (2) as part of a team presentation in a course of two hours or less,"

Page 6, line 6, delete "the" and insert "a qualified"

Page 6, line 8, after the period, insert "For the purposes of this section, a "qualified provider" is one of the following: (1) a degree-granting institution of higher learning located within this state; (2) a private school licensed by the Minnesota Office of Higher Education; or (3) when conducting courses for its members, a bona fide trade association that staffs and maintains in this state a physical location that contains course and student records and that has done so for not less than three years."

Page 6, after line 12, insert:

"Individuals wishing to receive credit for continuing education courses that have not been previously approved may submit the course information for approval. Courses must be in compliance with the laws and rules governing the types of courses that will and will not be approved."

Page 7, after line 4, insert:

"Subd. 3. **Academic credit Internet courses.** Subdivisions 1 and 2 do not apply to Internet prelicense courses offered for academic credit by an accredited college, community college, or university that offers distance education programs and is approved or accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States Secretary of Education.

Subd. 4. **Interactive Internet course requirements.** An interactive Internet prelicense education course must:

- (1) specify the minimum system requirements;
- (2) provide encryption that ensures that all personal information, including the student's name, address, and credit card number, cannot be read as it passes across the Internet;
- (3) include technology to guarantee seat time;
- (4) include a high level of interactivity;
- (5) include graphics that reinforce the content;
- (6) include the ability for the student to contact an instructor within a reasonable amount of time;
- (7) include the ability for the student to get technical support within a reasonable amount of time;
- (8) include a statement that the student's information will not be sold or distributed to any third party without prior written consent of the student. Taking the course does not constitute consent;
- (9) be available 24 hours a day, seven days a week, excluding minimal down time for updating and administration, except that this provision does not apply to live courses taught by an actual instructor and delivered over the Internet;

(10) provide viewing access to the online course at all times to the commissioner, excluding minimal down time for updating and administration;

(11) include a process to authenticate the student's identity;

(12) inform the student and the commissioner how long after its purchase a course will be accessible;

(13) inform the student that license education credit will not be awarded for taking the course after it loses its status as an approved course;

(14) provide clear instructions on how to navigate through the course;

(15) provide automatic bookmarking at any point in the course;

(16) provide questions after each unit or chapter that must be answered before the student can proceed to the next unit or chapter;

(17) include a reinforcement response when a quiz question is answered correctly;

(18) include a response when a quiz question is answered incorrectly;

(19) include a comprehensive final examination covering all required topics;

(20) allow the student to go back and review any unit at any time, except during the final examination;

(21) provide a course evaluation at the end of the course. At a minimum, the evaluation must ask the student to report any difficulties caused by the online education delivery method; and

(22) provide a completion certificate when the course and exam have been completed and the provider has verified the completion. Electronic certificates are sufficient."

Page 7, line 5, delete "3" and insert "5"

Page 7, line 6, after "be" insert "monitored by a proctor who certifies that the student took the examination. The exam must be either" and delete "that is monitored by a proctor"

Page 7, line 7, delete everything before the period and insert "or an encrypted online examination"

Page 7, after line 10, insert:

"Subdivision 1. **Appraiser Internet continuing education courses.** The design and delivery of an appraiser continuing education course must be approved by the International Distance Education Certification Center (IDECC) before the course is submitted for the commissioner's approval."

Page 7, line 11, delete "Subdivision 1." and insert "Subd. 2."

Page 7, line 28, before the semicolon, insert ", except that this provision does not apply to live courses taught by an actual instructor and delivered over the Internet"

Page 8, line 8, delete the third "any"

Page 8, line 9, delete "quizzes and"

Page 8, line 15, delete "2" and insert "3"

Page 10, line 14, after the period, insert "In the case of a self-study course, this requirement applies to the author of the course material."

Page 20, line 11, delete the new language

Page 20, line 13, after the period, insert "For the purposes of this subdivision, a course provided by a bona fide insurance trade association is not considered to be sponsored by, offered by, or affiliated with an insurance company or its agents."

Page 22, after line 11, insert:

"Sec. 34. Minnesota Statutes 2008, section 72B.02, subdivision 6, is amended to read:

Subd. 6. **Public adjuster.** "Public adjuster" means ~~an adjuster who hires out for employment by members of the public for a fee, commission or any other thing of value, and who, when so employed, acts solely to represent the interests of an insured named in an insurance policy. any person who, for compensation or any other thing of value on behalf of the insured:~~

(1) acts or aids, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(2) advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(3) directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured."

Page 23, lines 4, 7, and 8, delete "independent"

Page 23, line 6, delete "independent" and delete "independent"

Page 24, lines 12, 13, and 17, delete "independent"

Page 25, lines 8, 31, and 33, delete "independent"

Page 25, line 29, before "insurance" insert "public adjuster,"

Page 26, lines 1, 2, 5, 9, 10, and 30, delete "independent"

Page 26, line 28, delete "INDEPENDENT"

Page 27, lines 8, 21, and 31, delete "independent"

Page 27, line 28, before "adjuster" insert "or public"

Page 27, line 34, delete "insurance" and insert "independent or public"

Page 29, lines 1 and 5, before "adjuster" insert "or public"

Page 29, line 16, after "an" insert "independent" and delete "solicitor"

Page 29, lines 20, 22, 31, 32, and 33, delete "independent"

Page 30, line 34, delete "independent"

Page 31, lines 7, 21, 22, 28, 30, 34, and 35, delete "independent"

Page 32, lines 1, 2, 3, 4, 5, 6, 7, and 8, delete "independent"

Page 32, line 11, delete "independent" and delete "independent"

Page 33, line 21, delete "independent"

Page 36, line 16, delete "INDEPENDENT"

Page 36, lines 18, 19, 23, and 24, delete "independent"

Page 38, after line 2, insert:

"Sec. 57. **[72B.136] ESCROW OR TRUST ACCOUNTS.**

A public adjuster who receives, accepts, or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a non-interest-bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred."

Page 38, after line 3, insert:

"Subdivision 1. **Prelicense education.** Prelicense education for a real estate salesperson must consist of Course I, Course II, and Course III as described in this section. Prelicense education for a real estate broker must consist of the broker course as described in this section."

Page 38, line 4, delete "Subdivision 1." and insert "Subd. 2."

Page 41, line 30, delete "2" and insert "3"

Page 42, line 22, delete "3" and insert "4"

Page 46, line 8, delete "4" and insert "5"

Page 61, line 9, before "familial" insert "sexual orientation,"

Page 61, line 15, after the semicolon, insert "and"

Page 61, delete lines 16 to 18

Page 61, line 19, delete "(4)" and insert "(3)"

Page 62, delete lines 8 and 9 and insert "Sections 1 to 76 are effective July 1, 2010."

Renumber the sections in sequence

Amend the title numbers accordingly

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1447, 722, 1146, 1489, 1323, 1058, 910, 993, 1503, 806, 1452, 1712, 431, 747, 807, 1654, 738, 613, 474, 1742, 1711 and 1910 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 334 was read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Sieben, Vandever and Saltzman introduced—

S.F. No. 2063: A bill for an act relating to elections; extending availability of an appropriation for certain optical scan voting equipment; amending Laws 2005, chapter 162, section 34, subdivision 2.

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

Senator Foley introduced—

S.F. No. 2064: A bill for an act relating to local government; providing for additional financing of parks, trails, and recreational facilities for local units of government by special assessments; proposing coding for new law in Minnesota Statutes, chapter 448.

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

Senator Kubly introduced—

S.F. No. 2065: A bill for an act relating to employment; requiring a report on green jobs in the food production sector; appropriating money for farm-to-school and farm-to-home pilot projects.

Referred to the Committee on Finance.

Senator Olson, M. introduced—

S.F. No. 2066: A bill for an act relating to youth training; providing for summer programming for American Indian youth; appropriating money.

Referred to the Committee on Finance.

Senator Stumpf introduced—

S.F. No. 2067: A bill for an act relating to education finance; authorizing a grant for an online high school agricultural education program; appropriating money.

Referred to the Committee on Finance.

Senators Anderson and Dibble introduced—

S.F. No. 2068: A bill for an act relating to employment; appropriating money for a grant to a Southeast Asian youth job skills development program.

Referred to the Committee on Finance.

Senator Prettner Solon introduced—

S.F. No. 2069: A bill for an act relating to taxation; property tax levy for the seaway port authority of Duluth; amending Minnesota Statutes 2008, section 469.053, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Berglin introduced—

S.F. No. 2070: A bill for an act relating to human services; requiring the issuance of certain federal incentive payments; providing a temporary rate increase for certain hospitals; authorizing certain voluntary intergovernmental transfer payments; authorizing additional medical assistance payments under certain circumstances; requiring reporting of additional certified public expenditures; amending Minnesota Statutes 2008, sections 256.01, by adding a subdivision; 256.969, by adding a subdivision; 256B.199; proposing coding for new law in Minnesota Statutes, chapter 256B.

Referred to the Committee on Finance.

Senators Dibble and Pogemiller introduced—

S.F. No. 2071: A bill for an act relating to taxation; property tax exemption for leased property at Minneapolis Convention Center.

Referred to the Committee on Taxes.

Senator Berglin introduced—

S.F. No. 2072: A bill for an act relating to health care; proposing an amendment to the Minnesota Constitution by adding a section to article XI; dedicating the proceeds of the health care provider tax to MinnesotaCare and health care access.

Referred to the Committee on Health, Housing and Family Security.

MOTIONS AND RESOLUTIONS

Senator Pariseau moved that her name be stricken as a co-author to S.F. No. 993. The motion prevailed.

Senator Koering moved that the name of Senator Frederickson be added as a co-author to S.F. No. 1203. The motion prevailed.

Senator Berglin moved that the name of Senator Sheran be added as a co-author to S.F. No.

1401. The motion prevailed.

Senator Sheran moved that the names of Senators Frederickson, Day and Rosen be added as co-authors to S.F. No. 1643. The motion prevailed.

Senator Berglin moved that the name of Senator Sheran be added as a co-author to S.F. No. 2003. The motion prevailed.

Senator Pappas moved that S.F. No. 531 be withdrawn from the Committee on Judiciary, given a second reading, and placed on General Orders. The motion prevailed.

S.F. No. 531 was read the second time.

Senators Bonoff, Rest, Latz, Hann and Michel introduced –

Senate Resolution No. 70: A Senate resolution congratulating the Hopkins High School boys basketball team on winning the 2009 State High School Class 4A boys basketball championship.

Referred to the Committee on Rules and Administration.

Senator Olseen introduced –

Senate Resolution No. 71: A Senate resolution honoring Ian Brown of Taylors Falls, Minnesota, for receiving the Eagle Scout Award.

Referred to the Committee on Rules and Administration.

Senator Olseen introduced –

Senate Resolution No. 72: A Senate resolution honoring Ethan Herberg of Shafer, Minnesota, for receiving the Eagle Scout Award.

Referred to the Committee on Rules and Administration.

Senator Olseen introduced –

Senate Resolution No. 73: A Senate resolution honoring Shawn Bluhm of Lindstrom, Minnesota, for receiving the Eagle Scout Award.

Referred to the Committee on Rules and Administration.

Senator Olseen introduced –

Senate Resolution No. 74: A Senate resolution congratulating Hunter Heggerston of Shafer for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Olseen introduced –

Senate Resolution No. 75: A Senate resolution congratulating Adam Erdman of Center City,

Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Olseen introduced –

Senate Resolution No. 76: A Senate resolution congratulating Tyler Waddell of Center City, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

GENERAL ORDERS

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

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

S.F. Nos. 615 and 298, which the committee recommends to pass.

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

MEMBERS EXCUSED

Senators Hann, Metzen, Skogen and Tomassoni were excused from the Session of today.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Thursday, April 16, 2009. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

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