FORTIETH DAY

St. Paul, Minnesota, Thursday, April 14, 2005

The Senate met at 11:30 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Johnson, D.E. 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. Ron Freimark.

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

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

The President declared a quorum present.

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

MEMBERS EXCUSED

Senators Kiscaden, McGinn, Olson and Rest were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

April 11, 2005

The Honorable Steve Sviggum
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 Act of the 2005 Session of the State

Legislature has been received from the Office of the Governor and is 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 2005	Date Filed 2005
	3	20	2:42 p.m. April 11	April 11

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 241, 2166 and 1189.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 11, 2005

FIRST READING OF HOUSE BILLS

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

H.F. No. 241: A bill for an act relating to public employment; providing that a public employer may not forbid a police officer or firefighter from wearing an American flag patch or pin on a uniform; proposing coding for new law in Minnesota Statutes, chapter 15.

SUSPENSION OF RULES

Senator Reiter, as chief author, moved that Senate Rule 45 be suspended with respect to House File No. 241.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on H.F. No. 241. The Sergeant at Arms was instructed to bring in the absent members.

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

Senator Johnson, D.E. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 28 and nays 34, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kleis	Neuville	Rosen
Belanger	Gerlach	Koering	Nienow	Ruud
Day	Hann	Larson	Ortman	Senjem
Dille	Johnson, D.J.	LeClair	Pariseau	Wergin
Fischbach	Jungbauer	Limmer	Reiter	
Frederickson	Kierlin	Michel	Robling	

Those who voted in the negative were:

Anderson	Foley	Lourey	Pogemiller	Solon
Bakk	Higgins	Marko	Ranum	Sparks
Berglin	Hottinger	Marty	Sams	Stumpf
Betzold	Johnson, D.E.	Metzen	Saxhaug	Tomassoni
Chaudhary	Kelley	Moua	Scheid	Vickerman
Cohen	Kubly	Murphy	Skoe	Wiger
Dibble	Langseth	Pappas	Skoglund	

The motion did not prevail.

H.F. No. 241 was referred to the Committee on State and Local Government Operations.

H.F. No. 2166: A bill for an act relating to human services; extending the termination date for the Traumatic Brain Injury Advisory Committee; amending Minnesota Statutes 2004, section 256B.093, subdivision 1.

Referred to the Committee on State and Local Government Operations.

H.F. No. 1189: A bill for an act relating to traffic regulations; removing an expiration date on an exception to seasonal weight limits for certain recycling and garbage trucks; amending Minnesota Statutes 2004, section 169.87, subdivision 6.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1259, now on the Consent Calendar.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1885, 2163, 2166, 1953, 2021, 2123 and the report pertaining to appointments. The motion prevailed.

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

H.F. No. 1820: A bill for an act relating to the Cambridge State Hospital; naming a cemetery; proposing coding for new law in Minnesota Statutes, chapter 246.

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

Page 1, line 8, after the period, insert "The commissioner of human services shall approve the wording and design for a sign at the cemetery indicating its name. The commissioner may approve a temporary sign before the permanent sign is completed and installed. All costs related to the sign must be paid with nonstate funds."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing for a sign;"

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

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

S.F. No. 944: A bill for an act relating to unemployment insurance; conforming various provisions to federal requirements; making technical and housekeeping changes; modifying appeal procedures; amending Minnesota Statutes 2004, sections 268.03, subdivision 1; 268.035, subdivisions 9, 13, 14, 20, 21, 26; 268.042, subdivision 1; 268.043; 268.044, subdivisions 1, 2, 3; 268.045, subdivision 1; 268.051, subdivisions 1, 4, 6, 7, by adding a subdivision; 268.052,

subdivision 2; 268.053, subdivision 1; 268.057, subdivision 7; 268.065, subdivision 2; 268.069, subdivision 1; 268.07, subdivision 3b; 268.085, subdivisions 1, 2, 3, 5, 12; 268.086, subdivisions 2, 3; 268.095, subdivisions 1, 4, 7, 8, 10, 11; 268.101, subdivisions 1, 3a; 268.103, subdivision 2; 268.105; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 2b; 268.182, subdivision 2; 268.184, subdivisions 1, 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2004, sections 268.045, subdivisions 2, 3, 4; 268.086, subdivision 4; Laws 1997, chapter 66, section 64, subdivision 1; Minnesota Rules, parts 3310.2926; 3310.5000; 3315.0910, subpart 9; 3315.1020; 3315.1301; 3315.1315, subparts 1, 2, 3; 3315.1650; 3315.2210; 3315.3210; 3315.3220.

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

Page 13, line 9, reinstate the stricken comma

Page 13, line 10, strike the period

Page 13, line 32, reinstate the stricken "provided"

Page 13, line 33, delete "originally recruited and hired" and after "by" insert "an"

Page 13, line 35, delete "and then provided to the person"

Page 28, line 12, strike everything after "taxes"

Page 28, line 13, strike "subdivision 7,"

Page 28, line 18, strike "and voluntary payments"

Page 33, line 35, strike ", subdivision 1, paragraph (a),"

Page 33, line 36, strike ", subdivision 1,"

Page 34, line 1, strike "paragraph (d)"

Page 44, after line 18, insert:

"Sec. 31. Minnesota Statutes 2004, section 268.101, subdivision 2, is amended to read:

Subd. 2. [DISQUALIFICATION DETERMINATION.] (a) The commissioner shall determine any issue of disqualification raised by information required from an applicant under subdivision 1, paragraph (a) or (c), and send to the applicant and employer, by mail or electronic transmission, a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall state the effect on the employer under section 268.047. A determination shall be made pursuant to this paragraph even if a notified employer has not raised the issue of disqualification.

(b) The commissioner shall determine any issue of disqualification raised by an employer and send to the applicant and that employer, by mail or electronic transmission, a determination of disqualification or a determination of nondisqualification as is appropriate. The determination shall state the effect on the employer under section 268.047.

If a base period employer:

(1) was not the applicant's most recent employer prior to the application for unemployment benefits;

(2) did not employ the applicant during the six calendar months prior to the application for unemployment benefits; and

(3) did not raise an issue of disqualification within ten calendar days of notification under subdivision 1, paragraph (b);

then any exception under section 268.047, subdivisions 2 and 3, shall begin the Sunday two weeks following the week that the issue of disqualification was raised by the employer.

(c) If any time within 24 months from the establishment of a benefit account the commissioner finds that an applicant failed to report any employment, or loss of employment~~, or offers of employment~~ that ~~were~~ was required to be provided by the applicant under this section, the commissioner shall determine any issue of disqualification on that loss of employment ~~or offer of employment~~ and send to the applicant and involved employer, by mail or electronic transmission, a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall state the effect on the employer under section 268.047.

This paragraph shall not prevent the imposition of any penalty under section 268.18, subdivision 2, or 268.182.

(d) An issue of disqualification shall be determined based upon that information required of an applicant, any information that may be obtained from an applicant or employer, and information from any other source, without regard to any common law burden of proof.

(e) A determination of disqualification or a determination of nondisqualification shall be final unless an appeal is filed by the applicant or notified employer within 30 calendar days after sending. The determination shall contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.

(f) An issue of disqualification for purposes of this section shall include any reason for no longer working for an employer other than a layoff due to lack of work, any question of a disqualification from unemployment benefits under section 268.095, any question of an exception to disqualification under section 268.095, any question of effect on an employer under section 268.047, and any question of an otherwise imposed disqualification that an applicant has satisfied under section 268.095, subdivision 10.

(g) Regardless of the requirements of this subdivision, the commissioner is not required to send to an applicant a determination where the applicant has satisfied any otherwise potential disqualification under section 268.095, subdivision 10."

Page 60, line 16, delete "31, 33 to 38, and 40" and insert "32, 34 to 39, and 41"

Page 60, line 17, delete "39" and insert "40"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 15, after "1," insert "2,"

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. 1388: A bill for an act relating to traffic regulations; modifying provision governing the passing of a parked emergency vehicle; amending Minnesota Statutes 2004, section 169.18, subdivision 11.

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 2004, section 169.18, subdivision 11, is amended to read:

Subd. 11. [PASSING PARKED EMERGENCY VEHICLE; CITATION; PROBABLE CAUSE.] (a) When approaching and before passing an authorized emergency vehicle with its emergency lights activated that is parked or otherwise stopped on or next to a street or highway having two ~~or more~~ lanes in the same direction, the driver of a vehicle shall safely move the vehicle to ~~a~~ the lane farthest away from the emergency vehicle.

(b) When approaching and before passing an authorized emergency vehicle with its emergency lights activated that is parked or otherwise stopped on or next to a street or highway having more than two lanes in the same direction, the driver of a vehicle shall safely move the vehicle so as to leave a full lane vacant between the driver and any lane in which the emergency vehicle is completely or partially parked or otherwise stopped.

(c) A peace officer may issue a citation to the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of this subdivision within the four-hour period following the termination of the incident or a receipt of a report under paragraph (d). The citation may be issued even though the violation was not committed in the presence of the peace officer.

(d) Although probable cause may be otherwise satisfied by other evidentiary elements or factors, probable cause is sufficient for purposes of this subdivision when the person cited is operating the vehicle described by a member of the crew of an authorized emergency vehicle responding to an incident in a timely report of the violation of this subdivision, which includes a description of the vehicle used to commit the offense and the vehicle's license plate number. For the purposes of issuance of a citation under paragraph (c), "timely" means that the report must be made within a four-hour period following the termination of the incident.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to traffic regulations; clarifying duty of driver when passing parked emergency vehicle; authorizing issuance of citation within four hours after violation; amending Minnesota Statutes 2004, section 169.18, subdivision 11."

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

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

S.F. No. 1815: A bill for an act relating to commerce; modifying various requirements for licensees of the Department of Commerce; amending Minnesota Statutes 2004, sections 60K.37, subdivision 1; 60K.38, subdivision 1; 60K.39, subdivision 3; 60K.56, subdivision 6; 82.29, subdivision 8; 82.31, subdivision 5; 82.32; 82B.02, by adding a subdivision; 82B.10, subdivision 4; 82B.11, subdivision 6; 82B.13, subdivisions 1, 3, 4, 5; 82B.14; 82B.19, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 45; repealing Minnesota Statutes 2004, section 82B.221; Minnesota Rules, part 2808.2200.

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

Delete everything after the enacting clause and insert:

"Section 1. [45.21] [APPLICATION FEES.]

Subdivision 1. [FEE REFUNDS.] Refunds must not be given other than for overpayment of fees. Overpayment means any payment of money in excess of a statutory fee or for a license for which a person does not qualify. An overpayment of a fee must be returned upon proper application by the applicant. If an applicant requests a refund of an overpayment, the request must be received by the commissioner within six months of the date of deposit or the overpayment will be forfeited. An overpayment of a fee may be returned to the person entitled to it upon determination by the commissioner that an overpayment was made.

Subd. 2. [WITHDRAWAL OF APPLICATION.] An application that is incomplete is considered withdrawn if the applicant does not submit a complete application within six months of the date the application was received. The application fee is nonrefundable if an application is withdrawn according to this subdivision.

Sec. 2. [45.22] [LICENSE EDUCATION.]

(a) License education courses must be approved in advance by the commissioner. Each sponsor who offers a license education course must have at least one coordinator, approved by the commissioner, who is responsible for supervising the educational program and assuring compliance with all laws and rules. "Sponsor" means any person or entity offering approved education.

(b) For coordinators with an initial approval date before the effective date of this provision, approval will expire on December 31, 2005. For courses with an initial approval date on or before December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before the effective date of this provision, approval will expire on April 30, 2007.

Sec. 3. Minnesota Statutes 2004, section 60K.36, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION NOT REQUIRED.] A resident individual applying for a limited lines credit insurance, title insurance, travel baggage insurance, mobile telephone insurance, or bail bonds license is not required to take a written examination.

Sec. 4. Minnesota Statutes 2004, section 60K.37, subdivision 1, is amended to read:

Subdivision 1. [RESIDENT INSURANCE PRODUCER.] A person is a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state constitutes an election of residency in this state. A license issued upon an application claiming residency in this state is void if the licensee, while holding a resident license in this state, obtains a resident license in, or claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state. ~~However, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify for a resident license in this state and at the same time hold a resident license from the contiguous state.~~

Sec. 5. Minnesota Statutes 2004, section 60K.38, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] (a) Unless denied a license under section 60K.43, a person who has met the requirements of sections 60K.36 and 60K.37 must be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the lines of authority in paragraphs (b) and (c).

(b) An individual insurance producer may receive qualification for a license in one or more of the following major lines:

(1) life insurance: coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) accident and health or sickness insurance: coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) property insurance: coverage for the direct or consequential loss or damage to property of every kind;

(4) casualty insurance: coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(5) variable life and variable annuity products insurance: coverage provided under variable life insurance contracts and variable annuities; and

(6) personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(c) An individual insurance producer may receive qualification for a license in one or more of the following limited lines:

(1) limited line credit insurance;

(2) farm property and liability insurance;

(3) title insurance;

(4) travel baggage insurance;

(5) mobile telephone insurance; and

(6) bail bonds~~; and~~

~~(6) any other line of insurance permitted under state laws or rules~~.

Sec. 6. Minnesota Statutes 2004, section 60K.39, subdivision 3, is amended to read:

Subd. 3. [CHANGE OF ADDRESS.] A nonresident producer who moves from one state to another state ~~or a resident producer who moves from this state to another state~~ shall file a change of address and provide certification from the new resident state within ten days of the change of legal residence. No fee or license application is required.

Sec. 7. Minnesota Statutes 2004, section 82.31, subdivision 5, is amended to read:

Subd. 5. [PERIOD FOR APPLICATION.] An applicant who obtains an acceptable score on a salesperson's examination must file an application and obtain the license within one year of the date of successful completion of the examination or a second examination must be taken to qualify for the license. ~~If a new examination is required, prelicense education must be completed in accordance with section 82.29, subdivision 8.~~

Sec. 8. Minnesota Statutes 2004, section 82.32, is amended to read:

82.32 [LICENSING: CONTINUING EDUCATION AND INSTRUCTION.]

(a) All real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real estate continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during the initial license period and during each succeeding 24-month license period. ~~At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period.~~ Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(b) The commissioner may adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of prelicense instruction as required under section 82.29, subdivision 8, and continuing education as required under this section and sections 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44. The commissioner may not approve a course which can be completed by the student at home or outside the classroom without the supervision of an instructor except accredited courses using new delivery technology, including interactive technology, and the Internet. The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of study in the real estate field developed by and offered under the auspices of the National Association of Realtors, its affiliates, or private real estate schools. Courses in motivation, salesmanship, psychology, or time management shall not be approved by the commissioner for continuing education credit. The commissioner may approve courses in any other subjects, including, but not limited to, communication, marketing, negotiation, and technology for continuing education credit.

(c) Any program approved by Minnesota continuing legal education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.

(d) As part of the continuing education requirements of this section and sections 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least one hour of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least one hour of training during each license period in courses in state and federal fair housing laws, regulations, and rules, other antidiscrimination laws, or courses designed to help licensees to meet the housing needs of immigrant and other underserved populations.

Clauses (1) and (2) do not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

(e) The commissioner is authorized to establish a procedure for renewal of course accreditation.

(f) Approved continuing education courses may be sponsored or offered by a broker of a real estate company and may be held on the premises of a company licensed under this chapter. All continuing education course offerings must be open to any interested individuals. Access may be restricted by the sponsor based on class size only. Courses must not be approved if attendance is restricted to any particular group of people. A broker must comply with all continuing education rules prescribed by the commissioner. The commissioner shall not approve any prelicense instruction courses offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business.

(g) Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

(h) The real estate education course completion certificate must be in the form set forth by the commissioner.

Students are responsible for maintaining copies of course completion certificates.

Sec. 9. Minnesota Statutes 2004, section 82B.02, is amended by adding a subdivision to read:

Subd. 16. [USPAP.] "USPAP" means the Uniform Standards of Professional Appraisal Practice established by the Appraisal Foundation.

Sec. 10. [82B.095] [APPRAISER QUALIFICATION COMPONENTS.]

The three components required for a real property appraiser license are education, experience, and examination. Applicants for a class of license must document that they have met at least the component criteria that were in effect at the time they completed that component.

Sec. 11. Minnesota Statutes 2004, section 82B.10, subdivision 4, is amended to read:

Subd. 4. [PERIOD FOR APPLICATION.] An applicant who obtains an acceptable score on an examination must file an application and obtain the license within ~~one year~~ two years of the date of successful completion of the examination or a second examination must be taken to qualify for the license.

Sec. 12. Minnesota Statutes 2004, section 82B.11, subdivision 6, is amended to read:

Subd. 6. [TEMPORARY PRACTICE.] (a) The commissioner shall issue a license for temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person certified or licensed by another state if:

(1) the property to be appraised is part of a federally related transaction and the person is licensed to appraise property limited to the same transaction value or complexity provided in subdivision 3, 4, or 5;

(2) the appraiser's business is of a temporary nature; and

(3) the appraiser registers with the commissioner to obtain a temporary license before conducting appraisals within the state.

(b) The term of a temporary practice license is the lesser of:

(1) the time required to complete the assignment; or

(2) six months, with one extension allowed.

The appraiser may request one extension of no more than six months on a form provided by the commissioner. If more than 12 months are necessary to complete the assignment, a new temporary application and fee is required.

Sec. 13. Minnesota Statutes 2004, section 82B.13, subdivision 1, is amended to read:

Subdivision 1. [REGISTERED REAL PROPERTY APPRAISER OR LICENSED REAL PROPERTY APPRAISER.] As a prerequisite for licensing as a registered real property appraiser or licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 90 classroom hours of prelicense courses. The courses must consist of 75 hours of general real estate appraisal principles and ~~15 hours related to standards of professional appraisal practice and the provisions of this chapter~~ the 15-hour national USPAP course.

Sec. 14. Minnesota Statutes 2004, section 82B.13, subdivision 3, is amended to read:

Subd. 3. [COMMISSIONER'S APPROVAL; RULES.] The courses and instruction and procedures of courses must be approved by the commissioner. The commissioner may adopt rules to administer this section. These rules must, to the extent practicable, conform to the rules adopted for real estate and insurance education. The credit hours required under this section may be credited to a person for distance education courses that meet Appraiser Qualifications Board criteria.

Sec. 15. Minnesota Statutes 2004, section 82B.13, subdivision 4, is amended to read:

Subd. 4. [CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER.] As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 120 classroom hours of prelicense courses, ~~including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter,~~ with particular emphasis on the appraisal of one to four unit residential properties. Fifteen of the 120 hours must include successful completion of the 15-hour national USPAP course.

Sec. 16. Minnesota Statutes 2004, section 82B.13, subdivision 5, is amended to read:

Subd. 5. [CERTIFIED GENERAL REAL PROPERTY APPRAISER.] As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 180 classroom hours of prelicense courses, ~~including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter,~~ with particular emphasis on the appraisal of nonresidential properties. Fifteen of the 180 hours must include successful completion of the 15-hour national USPAP course.

Sec. 17. Minnesota Statutes 2004, section 82B.14, is amended to read:

82B.14 [EXPERIENCE REQUIREMENT.]

(a) As a prerequisite for licensing as a licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,000 hours of experience in real property appraisal.

As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,500 hours of experience in real property appraisal obtained in no fewer than 24 months.

As a prerequisite for licensing as a certified general real property appraiser, an applicant must

present evidence satisfactory to the commissioner that the person has obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

(c) Applicants may not receive credit for experience accumulated while unlicensed, if the experience is based on activities which required a license under this section.

Sec. 18. Minnesota Statutes 2004, section 82B.19, subdivision 1, is amended to read:

Subdivision 1. [LICENSE RENEWALS.] A licensed real estate appraiser shall present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.

The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least 30 classroom hours of instruction in courses or seminars that have received the approval of the commissioner. Classroom hour credit must not be accepted for courses of less than two hours. As part of the continuing education requirements of this section, the commissioner shall require that all real estate appraisers ~~receive at least seven hours of training each license period in courses in laws or regulations on standards of professional practice~~ successfully complete the seven-hour national USPAP update course every two years. If the applicant's immediately preceding term of licensing consisted of 12 or more months, but fewer than 24 months, the applicant must provide evidence of completion of 15 hours of instruction during the license period. ~~If the immediately preceding term of licensing consisted of fewer than 12 months, no continuing education need be reported.~~ The credit hours required under this section may be credited to a person for distance education courses that meet Appraiser Qualifications Board criteria.

Sec. 19. [REPEALER.]

(a) Minnesota Statutes 2004, section 82B.221, is repealed.

(b) Minnesota Rules, part 2808.2200, is repealed."

Delete the title and insert:

"A bill for an act relating to commerce; modifying various requirements for licensees of the Department of Commerce; amending Minnesota Statutes 2004, sections 60K.36, subdivision 2; 60K.37, subdivision 1; 60K.38, subdivision 1; 60K.39, subdivision 3; 82.31, subdivision 5; 82.32; 82B.02, by adding a subdivision; 82B.10, subdivision 4; 82B.11, subdivision 6; 82B.13, subdivisions 1, 3, 4, 5; 82B.14; 82B.19, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 45; 82B; repealing Minnesota Statutes 2004, section 82B.221; Minnesota Rules, part 2808.2200."

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

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

S.F. No. 893: A bill for an act relating to counties; authorizing county boards to contract for the sale of biomass; amending Minnesota Statutes 2004, section 282.04, subdivision 1.

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

Page 1, lines 10 and 11, delete the new language

Page 2, line 2, delete the new language

Page 5, line 14, before "closed-loop" insert "farm-grown"

Page 5, line 15, delete "short rotation" and insert "short-rotation"

Page 5, lines 18 and 20, after "peat" insert ", farm-grown closed-loop biomass, or short-rotation woody crops"

Page 6, delete lines 18 to 23

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

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

S.F. No. 628: A bill for an act relating to game and fish; modifying protection status of great horned owls; amending Minnesota Statutes 2004, section 97A.015, subdivision 52.

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

Page 1, after line 11, insert:

"Sec. 2. Minnesota Statutes 2004, section 97B.701, is amended by adding a subdivision to read:

Subd. 4. [GREAT HORNED OWL.] A person who is authorized to take a great horned owl under a federal permit does not need a state permit to take a great horned owl."

Amend the title as follows:

Page 1, line 4, delete "section" and insert "sections" and after "52" insert "; 97B.701, by adding a subdivision"

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

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

S.F. No. 1534: A bill for an act relating to natural resources; modifying snowmobile state trail sticker provisions; providing for payment of trail maintenance costs; providing for trail easement acquisition; appropriating money; amending Minnesota Statutes 2004, sections 84.8205, subdivision 1; 84.83, by adding subdivisions.

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

Page 1, delete section 2

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 3 and 4, delete "providing for payment of trail maintenance costs;"

Page 1, line 7, delete "subdivisions" and insert "a subdivision"

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, to which was referred

H.F. No. 1650: A bill for an act relating to cosmetology; providing for the transfer of

regulatory oversight; modifying regulatory provisions; providing conforming changes; amending Minnesota Statutes 2004, sections 154.18; 154.22; 155A.03, subdivision 4a; 155A.04; 155A.045, subdivision 1; 155A.08, subdivision 1; 155A.135; repealing Minnesota Statutes 2004, sections 155A.03, subdivision 13; 155A.06; Minnesota Rules, part 2100.9300, subpart 1.

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

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

S.F. No. 903: A bill for an act relating to public safety; creating a Conditional Release Board with the authority to order the conditional release from prison of certain nonviolent controlled substance offenders, if the release of these offenders does not pose a danger to the public or any individual; authorizing expungements of conviction records for these offenders; requiring the Department of Corrections to offer chemical dependency treatment to certain offenders; authorizing an RFP for the construction and operation of correctional facilities to house and treat controlled substance offenders; amending Minnesota Statutes 2004, section 609A.02, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 243; 244.

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

Delete everything after the enacting clause and insert:

"Section 1. [152.0255] [STAYED SENTENCES FOR CERTAIN FIRST-TIME CONTROLLED SUBSTANCE POSSESSORS.]

Subdivision 1. [STAYED SENTENCES AUTHORIZED; FIRST-TIME SECOND-, THIRD-, FOURTH-, AND FIFTH-DEGREE CONTROLLED SUBSTANCE POSSESSORS.] (a) Notwithstanding any contrary provision of the sentencing guidelines, the court may stay the execution of sentence for an offender convicted of violating section 152.022, subdivision 2; 152.023, subdivision 2; 152.024, subdivision 2; or 152.025, subdivision 2, if the offender has not previously been convicted or adjudicated delinquent for a violation of this chapter, or an offense from another jurisdiction similar to an offense under this chapter. The court may impose appropriate terms and conditions on the offender.

(b) If the court stays an offender's sentence under paragraph (a), it shall order the offender to successfully complete a chemical dependency treatment program designated by the court. The court shall select a program that is appropriate given the offender's chemical dependency needs. When possible, the program must be tailored specifically to the offender's specific addiction, have an inpatient and outpatient component, including aftercare, and be of a sufficient duration to adequately address the offender's chemical dependency issues.

(c) A sentence under this subdivision is not a departure under the sentencing guidelines.

Subd. 2. [COSTS.] When a court sentences an offender under this section, it may require the offender to pay the costs of the treatment program as well as other costs authorized by law.

Subd. 3. [PRESENTENCE INVESTIGATION.] The court shall consider the results of the presentence investigation under section 609.115, including the chemical use assessment, and any other relevant information before sentencing an offender described in this section. The court may sentence the offender under this section only if the sentence is appropriate based on the results of the assessment.

Subd. 4. [EXCEPTION; PRIOR VIOLENT CRIMES OR POSSESSION OF DANGEROUS WEAPON.] Except as otherwise provided in this section, this section does not apply to an offender who has previously been convicted or adjudicated delinquent for a violent crime as defined in section 609.1095 or who possessed a dangerous weapon at the time of arrest.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to offenders sentenced on or after that date.

Sec. 2. [244.055] [CONDITIONAL RELEASE OF NONVIOLENT CONTROLLED SUBSTANCE OFFENDERS; OPPORTUNITY FOR DRUG TREATMENT.]

Subdivision 1. [CONDITIONAL RELEASE BOARD.] The Conditional Release Board has the authority to release offenders committed to the custody of the commissioner of corrections who meet the requirements of this section and of any rules adopted by the board.

Subd. 2. [MEMBERSHIP.] (a) The board consists of the following five members:

(1) the commissioner of corrections or a designee;

(2) the commissioner of public safety or a designee; and

(3) three public members appointed by the governor with the advice and consent of the senate.

(b) Members of the board appointed by the governor under paragraph (a), clause (3), are not required to have specific academic or professional qualifications but must have knowledge of or experience in corrections or related fields and must be selected based on their sound judgment and ability to consider the needs of persons over whom the board has jurisdiction and the safety of the public. At least one of the public members must be male, at least one must be female, and at least one must be a member of a racial minority group.

(c) Members of the board shall serve for staggered terms and are eligible for reappointment. Of the initial appointments for the public members, one must be for a two-year term, one must be for a four-year term, and one must be for a six-year term. The term for reappointments is six years.

(d) The removal of members appointed by the governor under paragraph (a), clause (3), and the filling of their vacant positions is governed by section 15.0575.

Subd. 3. [CONDITIONAL RELEASE OF CERTAIN NONVIOLENT CONTROLLED SUBSTANCE OFFENDERS.] An offender who has been committed to the commissioner's custody may petition the board for conditional release from prison before the offender's scheduled supervised release date or target release date if:

(1) the offender is serving a sentence for violating section 152.021, 152.022, 152.023, 152.024, or 152.025;

(2) the offender committed the crime as a result of a controlled substance addiction, and not primarily for profit;

(3) the offender has served at least 36 months or one-half of the offender's term of imprisonment, whichever is less;

(4) the offender successfully completed a chemical dependency treatment program while in prison; and

(5) the offender has not previously been conditionally released under this section.

Subd. 4. [OFFER OF CHEMICAL DEPENDENCY TREATMENT.] The commissioner shall offer all offenders meeting the criteria described in subdivision 3, clauses (1) and (2), the opportunity to begin a suitable chemical dependency treatment program within 120 days after the offender's term of imprisonment begins.

Subd. 5. [RELEASE PROCEDURES.] The board may not grant conditional release to an offender under this section unless the board determines that the offender's release will not pose a danger to the public or an individual. In making its determination, the board shall follow the procedures contained in section 244.05, subdivision 5, and the rules adopted by the commissioner of corrections under that subdivision. The board shall also consider the offender's custody classification and level of risk of violence and the availability of appropriate community supervision for the offender. Conditional release granted under this section continues until the offender's sentence expires, unless release is rescinded under subdivision 6.

Subd. 6. [CONDITIONAL RELEASE.] The conditions of release granted under this section are governed by the statutes and rules governing supervised release under this chapter, except that release may be rescinded without hearing by the Conditional Release Board if the board determines that continuation of the conditional release poses a danger to the public or to an individual. If the board rescinds an offender's conditional release, the offender shall be returned to prison and shall serve the remaining portion of the offender's sentence.

Subd. 7. [OFFENDERS SERVING OTHER SENTENCES.] An offender who is serving both a sentence for an offense described in subdivision 3 and an offense not described in subdivision 3, is not eligible for release under this section unless the offender has completed the offender's full term of imprisonment for the other offense.

[EFFECTIVE DATE.] This section is effective January 1, 2006, and applies to offenders serving terms of imprisonment and to offenders sentenced on or after that date.

Sec. 3. Minnesota Statutes 2004, section 609A.02, is amended by adding a subdivision to read:

Subd. 1a. [OTHER CONTROLLED SUBSTANCE OFFENSES; CONVICTIONS.] A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict for a violation of section 152.022, 152.023, 152.024, or 152.025 if the actions or proceedings were not resolved in favor of the petitioner, and if:

(1) the petitioner was conditionally released under section 244.055;

(2) at least five years have elapsed since the petitioner has been discharged from conditional release or since the petitioner's sentence has expired; and

(3) the petitioner has not been convicted of any new offense.

[EFFECTIVE DATE.] This section is effective August 1, 2005.

Sec. 4. [CONTROLLED SUBSTANCE OFFENDERS CURRENTLY IN PRISON; CONDITIONAL RELEASE.]

An offender meeting the criteria described in Minnesota Statutes, section 244.055, subdivision 3, clauses (1), (3), (4), and (5), and subdivision 7, may petition the Conditional Release Board under Minnesota Statutes, section 244.055, for conditional release. The provisions of Minnesota Statutes, section 244.055, apply to the petition, release decision, and conditional release of offenders under this section. However, the board shall ensure that the prosecutorial authority responsible for the offender's conviction receives reasonable advance notice of the offender's petition for conditional release. In addition to the other criteria for release, the board may not conditionally release an offender unless it determines that the offender committed the crime as a result of a controlled substance addiction, and not primarily for profit.

[EFFECTIVE DATE.] This section is effective January 1, 2006, and applies to offenders who committed controlled substance crimes before that date."

Amend the title as follows:

Page 1, line 10, delete everything after the semicolon and insert "changing criminal sentencing for certain controlled substance possession offenses;"

Page 1, delete lines 11 and 12

Page 1, line 13, delete "offenders;"

Page 1, line 15, delete "243" and insert "152"

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

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

S.F. No. 1738: A bill for an act relating to waters; modifying water use permit provisions; amending Minnesota Statutes 2004, section 103G.271, subdivision 5.

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

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

S.F. No. 940: A bill for an act relating to energy; expanding definition of farm-grown closed-loop biomass; amending Minnesota Statutes 2004, section 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision.

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

Page 5, line 3, delete "implement" and insert "complete"

Page 6, line 5, after "use" insert "farm-grown closed-loop biomass"

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

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

S.F. No. 1908: A bill for an act relating to natural resources; establishing the Shooting Range Protection Act; requiring expedited rulemaking; proposing coding for new law as Minnesota Statutes, chapter 87A.

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

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

S.F. No. 1885: A bill for an act relating to state government; authorizing certain emergency meetings to be conducted by telephone or other electronic means; proposing coding for new law in Minnesota Statutes, chapter 13D.

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

S.F. No. 1113: A bill for an act relating to special service districts; delaying a special law requirement until 2010; amending Minnesota Statutes 2004, section 428A.101.

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

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

S.F. No. 2112: A bill for an act relating to local government; providing for meetings of county boards at locations other than the county seat; amending Minnesota Statutes 2004, section 375.07.

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

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

S.F. No. 1905: A bill for an act relating to local government; authorizing nine-member county economic development authority boards; amending Minnesota Statutes 2004, section 469.1082, by adding a subdivision.

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

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

S.F. No. 1945: A bill for an act relating to local government; requiring a city council to vote on charter commission recommendations for charter amendments by ordinance; amending Minnesota Statutes 2004, section 410.12, subdivision 7.

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

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

S.F. No. 2007: A bill for an act relating to public utilities; authorizing district court to hear appeals of lesser utility fines; amending Minnesota Statutes 2004, section 216D.08, subdivision 1.

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

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

S.F. No. 1563: A bill for an act relating to debtor creditor relations; increasing the amount of the homestead exemption; amending Minnesota Statutes 2004, section 510.02.

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

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

S.F. No. 1998: A bill for an act relating to health; assessing health maintenance organizations for purposes of the insurance fraud prevention account; regulating certain rates, claims, filing, and reporting practices; eliminating expanded provider network requirements; amending Minnesota Statutes 2004, sections 45.0135, subdivision 7; 62E.05, subdivision 2; 62L.08, subdivision 8; 62Q.75, subdivision 2, by adding a subdivision; 72A.201, subdivision 4; 256B.692, subdivision 2; 295.582; repealing Minnesota Statutes 2004, sections 62E.035; 62Q.095; 62Q.64.

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

Page 3, delete lines 18 and 19 and insert:

"Sec. 4. Minnesota Statutes 2004, section 62Q.75, is amended to read:

62Q.75 [PROMPT PAYMENT REQUIRED.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given to them.

(b) "Clean claim" means a claim that has no defect or impropriety, including any lack of any required substantiating documentation, including, but not limited to, coordination of benefits information, or particular circumstance requiring special treatment that prevents timely payment from being made on a claim under this section. Nothing in this section alters an enrollee's obligation to disclose information as required by law.

(c) "Third-party administrator" means a third-party administrator or other entity subject to section 60A.23, subdivision 8, and Minnesota Rules, chapter 2767."

Page 4, delete lines 28 and 29

Page 5, line 5, after the period, insert "The six-month submission requirement may be extended to 12 months in cases where a health care provider or facility specified in subdivision 2 has determined and can substantiate that it has experienced a significant disruption to normal operations that materially affects the ability to conduct business in a normal manner and to submit claims on a timely basis."

Page 5, line 8, before the period, insert ", or to reparation obligors for treatment of an injury compensable under chapter 65B"

Page 5, line 15, reinstate the stricken language

Page 5, line 16, delete the new language

Page 6, line 17, delete the new language and reinstate the stricken language

Page 6, line 18, delete the new language

Page 6, line 19, after "a" insert "health" and delete "of accident and"

Page 6, line 20, delete "sickness insurance"

Page 6, line 21, delete everything after "62Q.75" and insert a semicolon

Page 6, delete lines 22 and 23

Page 6, line 24, after "a" insert "health" and delete "of accident and"

Page 6, line 25, delete "sickness insurance"

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 8 and 9, delete ", subdivision 2, by adding a subdivision"

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

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

S.F. No. 2163: A bill for an act relating to taxation; providing a personal property tax exemption and a sales tax exemption for construction materials used for an electric generating facility; amending Minnesota Statutes 2004, sections 272.02, subdivision 53; 297A.71, by adding a subdivision.

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

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

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

S.F. No. 2166: A bill for an act relating to taxation; property; clarifying the market value exclusion for electric power generation efficiency; amending Minnesota Statutes 2004, section 272.0211, subdivisions 1, 2.

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

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

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

S.F. No. 1716: A bill for an act relating to workers' compensation; adopting recommendations of the Workers' Compensation Advisory Council; amending Minnesota Statutes 2004, sections 176.011, subdivision 9; 176.041, by adding a subdivision; 176.081, subdivision 1; 176.092, subdivision 1a; 176.102, subdivision 3a; 176.106, subdivision 1; 176.129, subdivisions 1b, 2a, 13; 176.135, subdivisions 1, 7; 176.1351, subdivision 5; 176.1812, subdivision 1; 176.185, subdivisions 1, 7, by adding a subdivision; 176.231, subdivision 5; 176.238, subdivision 10; 176.391, subdivision 2; repealing Minnesota Statutes 2004, section 176.1812, subdivision 6.

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

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

S.F. No. 1953: A bill for an act relating to housing; increasing the deed tax to provide rental housing assistance; amending Minnesota Statutes 2004, sections 287.21, subdivision 1; 462A.201, by adding a subdivision; 462A.33, by adding a subdivision.

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

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

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

S.F. No. 1895: A bill for an act relating to economic development; authorizing metropolitan area counties to form economic development authorities; amending Minnesota Statutes 2004, section 469.1082, subdivision 1.

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

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

S.F. No. 1438: A bill for an act relating to public safety; expanding the protection against employer retaliation for crime victims; amending Minnesota Statutes 2004, sections 518B.01, by adding a subdivision; 609.748, by adding a subdivision; 611A.036.

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

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

S.F. No. 2021: A bill for an act relating to energy; providing funding for certain biomass-fueled community energy systems; appropriating money.

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

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

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

S.F. No. 1671: A bill for an act relating to taxation; providing a tax credit for qualifying affordable housing contributions; proposing coding for new law in Minnesota Statutes, chapter 290.

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

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

S.F. No. 1886: A bill for an act relating to employment and economic development; establishing the small business growth acceleration program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116O.

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

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

S.F. No. 1646: A bill for an act relating to housing; providing assistance to stabilize housing for children to enhance school attendance and performance; appropriating money; amending Minnesota Statutes 2004, section 462A.204, subdivision 8.

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

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

S.F. No. 2123: A resolution memorializing the President, Congress, and the United States Postal Service to maintain current levels of service.

Reports the same back with the recommendation that the resolution do pass and be re-referred to the Committee on Rules and Administration.

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

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was re-referred

S.F. No. 876: A bill for an act relating to drainage; requiring a study.

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

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

S.F. No. 1898: A bill for an act relating to corrections; updating amount of construction necessary before commissioner of corrections review; amending Minnesota Statutes 2004, section 641.21.

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

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

S.F. No. 1755: A bill for an act relating to state government; Department of Administration; requiring the design and construction of memorials to Coya Knutson on the Capitol grounds and in the city of Oklee; appropriating money.

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

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

S.F. No. 1629: A bill for an act relating to agriculture; changing certain loan provisions; establishing a loan program; changing certain livestock zoning regulations; paying for town road repairs; appropriating money; amending Minnesota Statutes 2004, sections 41B.046, subdivision 5; 41B.049, subdivision 2; 174.52, subdivisions 4, 5; 394.25, subdivision 3c; 462.355, subdivision 4; 462.357, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 41B; repealing Minnesota Statutes 2004, section 41B.046, subdivision 3.

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

Pages 4 and 5, delete section 5 and insert:

"Sec. 5. Minnesota Statutes 2004, section 116.07, subdivision 7a, is amended to read:

Subd. 7a. [NOTICE OF APPLICATION FOR LIVESTOCK FEEDLOT PERMIT.] (a) A person who applies to the Pollution Control Agency or a county board for a permit to construct or expand a feedlot with a capacity of 500 animal units or more shall, within ten days of applying for the permit and not less than 20 business days before the date on which a permit is issued, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. The notice may be delivered by first class mail, or in person~~, or by the publication in a newspaper of general circulation within the affected area~~ and must include information on the type of livestock and the proposed capacity of the feedlot. Notification under this subdivision is satisfied under an equal or greater notification requirement of a county conditional use permit. A person must also send a copy of the notice by first class mail to the clerk of the township in which the feedlot is proposed within ten days of applying for the permit and not less than 20 business days before the date on which a permit is issued.

(b) The agency or a county board must verify that notice was provided as required under paragraph (a) prior to issuing a permit."

Page 5, line 28, delete "Minnesota Department of Agriculture" and insert "appropriate state agency as needed"

Page 6, line 6, after "completion" insert ", including livestock and other agricultural operations permitted after the effective date of this section"

Amend the title as follows:

Page 1, lines 4 and 5, delete "paying for town road repairs;"

Page 1, line 7, after "2;" insert "116.07, subdivision 7a;" and delete "subdivisions 4," and insert "subdivision"

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

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

S.F. No. 1373: A bill for an act relating to economic development; establishing the incumbent worker program; amending Minnesota Statutes 2004, sections 116L.05, by adding a subdivision; 116L.17, subdivision 1; 116L.20, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116L.

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

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2004, section 116L.03, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] The Minnesota Job Skills Partnership Board consists of: seven members appointed by the governor, ~~the chair of the governor's Workforce Development Council,~~ the commissioner of employment and economic development, the chancellor, or the chancellor's designee, of the Minnesota State Colleges and Universities, the president, or the president's designee, of the University of Minnesota, and two nonlegislator members, one appointed by the Subcommittee on Committees of the senate Committee on Rules and Administration and one appointed by the speaker of the house. If the chancellor or the president of the university makes a designation under this subdivision, the designee must have experience in technical education. Four of the appointed members must be members of the governor's Workforce Development Council, of whom two must represent organized labor and two must represent business and industry. One of the appointed members must be a representative of a nonprofit organization that provides workforce development or job training services."

Page 1, line 15, after "116L.18" insert ". Incumbent worker training services under section 116L.18 may be provided"

Pages 2 and 3, delete section 2

Page 5, after line 24, insert:

"Sec. 5. [REPEALER.]

Minnesota Statutes 2004, section 116L.05, subdivision 4, is repealed."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "modifying workforce development governance;"

Page 1, line 4, after "sections" insert "116L.03, subdivision 2;"

Page 1, line 5, delete "116L.17, subdivision 1;"

Page 1, line 7, before the period, insert "; repealing Minnesota Statutes 2004, section 116L.05, subdivision 4"

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

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

S.F. No. 254: A bill for an act relating to the operation of state government; modifying parental contributions; modifying several MFIP provisions; modifying medical assistance estate recovery provisions; eliminating recoveries for alternative care costs; removing liens against life estates and joint tenant interests; changing certain income tax provisions; appropriating money; amending Minnesota Statutes 2004, sections 252.27, subdivision 2a; 256B.15, subdivisions 1, 1a, 1d, 1e, 1f, 1h, 1i, 1j, 2, 3, 4; 256J.21, subdivision 2; 256J.95, subdivision 9; 290.01, subdivisions 6b, 19d; 290.17, subdivisions 2, 4; 514.981, subdivision 6; 524.3-805; repealing Minnesota Statutes 2004, sections 256B.15, subdivision 1g; 256J.37, subdivisions 3a, 3b; 514.991; 514.992; 514.993; 514.994; 514.995.

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

Pages 33 to 43, delete article 3

Amend the title as follows:

Page 1, line 7, delete "changing certain"

Page 1, line 8, delete "income tax provisions;"

Page 1, line 12, delete everything after the first semicolon

Page 1, line 13, delete "subdivisions 2, 4;"

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

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

S.F. No. 1955: A bill for an act relating to human services; establishing the work participation rate enhancement program; amending Minnesota Statutes 2004, sections 256J.021; 256J.08, subdivision 65; 256J.521, subdivision 1; 256J.53, subdivision 2; 256J.626, subdivisions 1, 2, 3, 4, 7; proposing coding for new law in Minnesota Statutes, chapter 256J.

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 2004, section 119B.011, is amended by adding a subdivision to read:

Subd. 23. [WORK PARTICIPATION RATE ENHANCEMENT PROGRAM.] "Work participation rate enhancement program" means the program established under section 256J.575.

Sec. 2. Minnesota Statutes 2004, section 119B.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE PARTICIPANTS.] Families eligible for child care assistance under the MFIP child care program are:

(1) MFIP participants who are employed or in job search and meet the requirements of section 119B.10;

(2) persons who are members of transition year families under section 119B.011, subdivision 20, and meet the requirements of section 119B.10;

(3) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under section 256J.95;

(4) MFIP families who are participating in work job search, job support, employment, or training activities as required in their employment plan, or in appeals, hearings, assessments, or orientations according to chapter 256J;

(5) MFIP families who are participating in social services activities under chapter 256J as required in their employment plan approved according to chapter 256J;

(6) families who are participating in services or activities that are included in an approved family stabilization plan under section 256J.575;

(7) families who are participating in programs as required in tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2; and

~~(7)~~ (8) families who are participating in the transition year extension under section 119B.011, subdivision 20a.

Sec. 3. Minnesota Statutes 2004, section 256J.021, is amended to read:

256J.021 [SEPARATE STATE ~~PROGRAM~~ PROGRAMS FOR USE OF STATE MONEY.]

(a) Beginning October 1, 2001, and each year thereafter, the commissioner of human services must treat MFIP expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a two-parent eligible household as expenditures under a separately funded state program and report those expenditures to the federal Department of Health and Human Services as separate state program expenditures under Code of Federal Regulations, title 45, section 263.5.

(b) Beginning October 1, 2005, and each year thereafter, the commissioner of human services must treat MFIP expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a household participating in the work participation rate enhancement program under section 256J.575 as expenditures under a separately funded state program and report those expenditures to the federal Department of Health and Human Services as separate state program expenditures under Code of Federal Regulations, title 45, section 263.5.

Sec. 4. Minnesota Statutes 2004, section 256J.08, subdivision 65, is amended to read:

Subd. 65. [PARTICIPANT.] "Participant" means a person who is currently receiving cash assistance or the food portion available through MFIP. A person who fails to withdraw or access electronically any portion of the person's cash and food assistance payment by the end of the payment month, who makes a written request for closure before the first of a payment month and repays cash and food assistance electronically issued for that payment month within that payment month, or who returns any uncashed assistance check and food coupons and withdraws from the program is not a participant. A person who withdraws a cash or food assistance payment by electronic transfer or receives and cashes an MFIP assistance check or food coupons and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid. The term "participant" includes the caregiver relative and the minor child whose needs are included in the assistance payment. A person in an assistance unit who does not receive a cash and food assistance payment because the case has been suspended from MFIP is a participant. A person who receives cash payments under the diversionary work program under section 256J.95 is a participant. A person who receives cash payments under the work participation rate enhancement program under section 256J.575 is a participant.

Sec. 5. Minnesota Statutes 2004, section 256J.521, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENTS.] (a) For purposes of MFIP employment services, assessment is a continuing process of gathering information related to employability for the purpose of identifying both participant's strengths and strategies for coping with issues that interfere with employment. The job counselor must use information from the assessment process to develop and update the employment plan under subdivision 2 or 3, as appropriate, ~~and~~ to determine whether

the participant qualifies for a family violence waiver including an employment plan under subdivision 3, and to determine whether the participant should be referred to the work participation rate enhancement program under section 256J.575.

(b) The scope of assessment must cover at least the following areas:

(1) basic information about the participant's ability to obtain and retain employment, including: a review of the participant's education level; interests, skills, and abilities; prior employment or work experience; transferable work skills; child care and transportation needs;

(2) identification of personal and family circumstances that impact the participant's ability to obtain and retain employment, including: any special needs of the children, the level of English proficiency, family violence issues, and any involvement with social services or the legal system;

(3) the results of a mental and chemical health screening tool designed by the commissioner and results of the brief screening tool for special learning needs. Screening tools for mental and chemical health and special learning needs must be approved by the commissioner and may only be administered by job counselors or county staff trained in using such screening tools. The commissioner shall work with county agencies to develop protocols for referrals and follow-up actions after screens are administered to participants, including guidance on how employment plans may be modified based upon outcomes of certain screens. Participants must be told of the purpose of the screens and how the information will be used to assist the participant in identifying and overcoming barriers to employment. Screening for mental and chemical health and special learning needs must be completed by participants who are unable to find suitable employment after six weeks of job search under subdivision 2, paragraph (b), and participants who are determined to have barriers to employment under subdivision 2, paragraph (d). Failure to complete the screens will result in sanction under section 256J.46; and

(4) a comprehensive review of participation and progress for participants who have received MFIP assistance and have not worked in unsubsidized employment during the past 12 months. The purpose of the review is to determine the need for additional services and supports, including placement in subsidized employment or unpaid work experience under section 256J.49, subdivision 13, or referral to the work participation rate enhancement program under section 256J.575.

(c) Information gathered during a caregiver's participation in the diversionary work program under section 256J.95 must be incorporated into the assessment process.

(d) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the assessment process, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may assist the participant with arranging services, including child care assistance and transportation, necessary to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

Sec. 6. [256J.575] [WORK PARTICIPATION RATE ENHANCEMENT PROGRAM.]

Subdivision 1. [PURPOSE.] (a) The work participation rate enhancement program (WORK PREP) is Minnesota's TANF program to serve families who are not making significant progress within MFIP due to a variety of barriers to employment.

(b) The goal of this program is to stabilize and improve the lives of families at risk of long-term welfare dependency or family instability due to employment barriers such as physical disability, mental disability, age, and caring for a disabled household member. WORK PREP provides services to promote and support families to achieve the greatest possible degree of self-sufficiency. Counties may provide supportive and other allowable services funded by the MFIP consolidated fund under section 256J.626 to eligible participants.

Subd. 2. [DEFINITIONS.] The terms used in this section have the meanings given them in paragraphs (a) to (d).

(a) The "work participation rate enhancement program" means the program established under this section.

(b) "Case management" means the services provided by or through the county agency to participating families, including assessment, information, referrals, and assistance in the preparation and implementation of a family stabilization plan under subdivision 5.

(c) "Family stabilization plan" means a plan developed by a case manager and the participant, which identifies the participant's most appropriate path to unsubsidized employment, family stability, and barrier reduction, taking into account the family's circumstances.

(d) "Family stabilization services" means programs, activities, and services in this section that provide participants and their family members with assistance regarding, but not limited to:

(1) obtaining and retaining unsubsidized employment;

(2) family stability;

(3) economic stability; and

(4) barrier reduction.

The goal of the program is to achieve the greatest degree of economic self-sufficiency and family well-being possible for the family under the circumstances.

Subd. 3. [ELIGIBILITY.] (a) The following MFIP or DWP participants are eligible for the program under this section:

(1) a participant identified under section 256J.561, subdivision 2, paragraph (d), who has or is eligible for an employment plan developed under section 256J.521, subdivision 2, paragraph (c);

(2) a participant identified under section 256J.95, subdivision 12, paragraph (b), as unlikely to benefit from the diversionary work program;

(3) a participant who meets the requirements for or has been granted a hardship extension under section 256J.425, subdivision 2 or 3; and

(4) a participant who is applying for supplemental security income or Social Security disability insurance.

(b) Families must meet all other eligibility requirements for MFIP established in this chapter. Families are eligible for financial assistance to the same extent as if they were participating in MFIP.

Subd. 4. [UNIVERSAL PARTICIPATION.] All caregivers must participate in family stabilization services as defined in subdivision 2.

Subd. 5. [CASE MANAGEMENT; FAMILY STABILIZATION PLANS; COORDINATED SERVICES.] (a) The county agency shall provide family stabilization services to families through a case management model. A case manager shall be assigned to each participating family within 30 days after the family begins to receive financial assistance as a participant of the work participation rate enhancement program. The case manager, with the full involvement of the family, shall recommend, and the county agency shall establish and modify as necessary, a family stabilization plan for each participating family.

(b) The family stabilization plan shall include:

(1) each participant's plan for long-term self-sufficiency, including an employment goal where applicable;

(2) an assessment of each participant's strengths and barriers, and any special circumstances of the participant's family that impact, or are likely to impact, the participant's progress towards the goals in the plan; and

(3) an identification of the services, supports, education, training, and accommodations needed to overcome any barriers to enable the family to achieve self-sufficiency and to fulfill each caregiver's personal and family responsibilities.

(c) The case manager and the participant must meet within 30 days of the family's referral to the case manager. The initial family stabilization plan shall be completed within 30 days of the first meeting with the case manager. The case manager shall establish a schedule for periodic review of the family stabilization plan that includes personal contact with the participant at least once per month. In addition, the case manager shall review and modify if necessary the plan under the following circumstances:

(1) there is a lack of satisfactory progress in achieving the goals of the plan;

(2) the participant has lost unsubsidized or subsidized employment;

(3) a family member has failed to comply with a family stabilization plan requirement;

(4) services required by the plan are unavailable; or

(5) changes to the plan are needed to promote the well-being of the children.

(d) Family stabilization plans under this section shall be written for a period of time not to exceed six months.

Subd. 6. [COOPERATION WITH PROGRAM REQUIREMENTS.] (a) To be eligible, a participant must comply with paragraphs (b) to (f).

(b) Participants shall engage in family stabilization plan activities listed in clause (1) or (2) for the number of hours per week that the activities are scheduled and available, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1:

(1) in single-parent families with no children under six years of age, the case manager and the participant must develop a family stabilization plan that includes 30 to 35 hours per week of activities; and

(2) in single-parent families with a child under six years of age, the case manager and the participant must develop a family stabilization plan that includes 20 to 35 hours per week of activities.

(c) The case manager shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.

(d) When the participant has increased participation in work-related activities sufficient to meet the federal participation requirements of TANF, the county agency shall refer the participant to the MFIP program and assign the participant to a job counselor. The participant and the job counselor must meet within 15 days of referral to MFIP to develop an employment plan under section 256J.521. No reapplication is necessary and financial assistance shall continue without interruption.

(e) Participants who have not increased their participation in work activities sufficient to meet the federal participation requirements of TANF may request a referral to the MFIP program and assignment to a job counselor after 12 months in the program.

(f) A participant's requirement to comply with any or all family stabilization plan requirements under this subdivision shall be excused when the case management services, training and educational services, and family support services identified in the participant's family stabilization plan are unavailable for reasons beyond the control of the participant, including when money appropriated is not sufficient to provide the services.

Subd. 7. [SANCTIONS.] (a) The financial assistance grant of a participating family shall be reduced, according to section 256J.46, if a participating adult fails without good cause to comply or continue to comply with the family stabilization plan requirements in this subdivision, unless compliance has been excused under subdivision 6, paragraph (f).

(b) Given the purpose of the work participation rate enhancement program in this section and the nature of the underlying family circumstances that act as barriers to both employment and full compliance with program requirements, sanctions are appropriate only when it is clear that there is both ability to comply and willful noncompliance on the part of the participant.

(c) Prior to the imposition of a sanction, the county agency must review the participant's case to determine if the family stabilization plan is still appropriate and meet with the participants face-to-face. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must send the participant a written notice that includes the information required under clause (1):

(1) during the face-to-face meeting, the county agency must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed family stabilization service, as defined in subdivision 2, paragraph (d);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether activities in the family stabilization plan are appropriate based on the family's circumstances;

(iv) explain the consequences of continuing noncompliance;

(v) identify other resources that may be available to the participant to meet the needs of the family; and

(vi) inform the participant of the right to appeal under section 256J.40; and

(2) if the lack of an identified activity or service can explain the noncompliance, the county must work with the participant to provide the identified activity.

(d) After the requirements of paragraph (c) are met and prior to imposition of a sanction, the county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(e) Section 256J.57 applies to this section except to the extent that it is modified by this subdivision.

Sec. 7. [256J.621] [WORK PARTICIPATION BONUS.]

Upon exiting the diversionary work program (DWP) or upon terminating MFIP cash assistance with earnings, a participant shall be eligible for a work participation bonus of $75 per month to assist the household in meeting work-related expenses, including child care, transportation, and clothing, as the participant continues to move toward self-sufficiency. A participant is eligible for the work participation bonus if the participant is employed and working at least 24 hours a week when the MFIP case is closed. The participant will receive the work participation bonus in any month that the participant is employed an average of 24 hours per week, for a maximum of 12 months upon exiting DWP or MFIP. The commissioner shall establish policies and forms for verifying the level of employment necessary to qualify for the work participation bonus.

Sec. 8. Minnesota Statutes 2004, section 256J.626, subdivision 1, is amended to read:

Subdivision 1. [CONSOLIDATED FUND.] The consolidated fund is established to support counties and tribes in meeting their duties under this chapter. Counties and tribes must use funds from the consolidated fund to develop programs and services that are designed to improve

participant outcomes as measured in section 256J.751, subdivision 2, and to provide case management services to participants of the work participation rate enhancement program. Counties may use the funds for any allowable expenditures under subdivision 2. Tribes may use the funds for any allowable expenditures under subdivision 2, except those in clauses (1) and (6).

Sec. 9. Minnesota Statutes 2004, section 256J.626, subdivision 2, is amended to read:

Subd. 2. [ALLOWABLE EXPENDITURES.] (a) The commissioner must restrict expenditures under the consolidated fund to benefits and services allowed under title IV-A of the federal Social Security Act. Allowable expenditures under the consolidated fund may include, but are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31, for families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a. Payments under this subdivision are not considered TANF cash assistance and are not counted towards the 60-month time limit;

(2) transportation needed to obtain or retain employment or to participate in other approved work activities or activities under a family stabilization plan;

(3) direct and administrative costs of staff to deliver employment services for MFIP ~~or~~, the diversionary work program, or the work participation rate enhancement program; to administer financial assistance~~,~~; and to provide specialized services intended to assist hard-to-employ participants to transition to work or transition from the work participation rate enhancement program to MFIP;

(4) costs of education and training including functional work literacy and English as a second language;

(5) cost of work supports including tools, clothing, boots, and other work-related expenses;

(6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);

(7) services to parenting and pregnant teens;

(8) supported work;

(9) wage subsidies;

(10) child care needed for MFIP ~~or~~, the diversionary work program, or the work participation rate enhancement program participants to participate in social services;

(11) child care to ensure that families leaving MFIP or diversionary work program will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program; ~~and~~

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP or DWP assistance, but do not live in the same household as the child, obtain or retain employment; and

(13) services to help families participating in the work participation rate enhancement program achieve the greatest possible degree of self-sufficiency.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's allocation under this section. The commissioner shall define administrative costs for purposes of this subdivision.

Sec. 10. Minnesota Statutes 2004, section 256J.626, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR SERVICES.] Families with a minor child, a pregnant woman, or a noncustodial parent of a minor child receiving assistance, with incomes below 200 percent of the

federal poverty guideline for a family of the applicable size, are eligible for services funded under the consolidated fund. Counties and tribes must give priority to families currently receiving MFIP ~~or~~, the diversionary work program, or the work participation rate enhancement program, and families at risk of receiving MFIP or diversionary work program.

Sec. 11. Minnesota Statutes 2004, section 256J.626, subdivision 4, is amended to read:

Subd. 4. [COUNTY AND TRIBAL BIENNIAL SERVICE AGREEMENTS.] (a) Effective January 1, 2004, and each two-year period thereafter, each county and tribe must have in place an approved biennial service agreement related to the services and programs in this chapter. In counties with a city of the first class with a population over 300,000, the county must consider a service agreement that includes a jointly developed plan for the delivery of employment services with the city. Counties may collaborate to develop multicounty, multitribal, or regional service agreements.

(b) The service agreements will be completed in a form prescribed by the commissioner. The agreement must include:

(1) a statement of the needs of the service population and strengths and resources in the community;

(2) numerical goals for participant outcomes measures to be accomplished during the biennial period. The commissioner may identify outcomes from section 256J.751, subdivision 2, as core outcomes for all counties and tribes;

(3) strategies the county or tribe will pursue to achieve the outcome targets. Strategies must include specification of how funds under this section will be used and may include community partnerships that will be established or strengthened; ~~and~~

(4) strategies the county or tribe will pursue under the work participation rate enhancement program; and

(5) other items prescribed by the commissioner in consultation with counties and tribes.

(c) The commissioner shall provide each county and tribe with information needed to complete an agreement, including: (1) information on MFIP cases in the county or tribe; (2) comparisons with the rest of the state; (3) baseline performance on outcome measures; and (4) promising program practices.

(d) The service agreement must be submitted to the commissioner by October 15, 2003, and October 15 of each second year thereafter. The county or tribe must allow a period of not less than 30 days prior to the submission of the agreement to solicit comments from the public on the contents of the agreement.

(e) The commissioner must, within 60 days of receiving each county or tribal service agreement, inform the county or tribe if the service agreement is approved. If the service agreement is not approved, the commissioner must inform the county or tribe of any revisions needed prior to approval.

(f) The service agreement in this subdivision supersedes the plan requirements of section 116L.88.

Sec. 12. Minnesota Statutes 2004, section 256J.626, subdivision 7, is amended to read:

Subd. 7. [PERFORMANCE BASE FUNDS.] (a) Beginning calendar year 2005, each county and tribe will be allocated ~~95~~ 100 percent of their initial calendar year allocation. Counties and tribes will be allocated additional funds from federal TANF bonus funds the state receives based on performance as follows:

(1) for calendar year 2005, a county or tribe that achieves a 30 percent rate or higher on the MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the

four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation ~~equal to 2.5 percent of its initial allocation~~ to be determined by the commissioner based upon available funds; and

(2) for calendar year 2006, a county or tribe that achieves a 40 percent rate or a five percentage point improvement over the previous year's MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation ~~equal to 2.5 percent of its initial allocation~~ to be determined by the commissioner based upon available funds; and

(3) for calendar year 2007, a county or tribe that achieves a 50 percent rate or a five percentage point improvement over the previous year's MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation ~~equal to 2.5 percent of its initial allocation~~ to be determined by the commissioner based upon available funds; and

(4) for calendar year 2008 and yearly thereafter, a county or tribe that achieves a 50 percent MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation ~~equal to 2.5 percent of its initial allocation~~ to be determined by the commissioner based upon available funds; and

(5) for calendar years 2005 and thereafter, a county or tribe that performs above the top of its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year will receive an additional allocation ~~equal to five percent of its initial allocation~~ to be determined by the commissioner based upon available funds; or

(6) for calendar years 2005 and thereafter, a county or tribe that performs within its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year, or above the top of its range of expected performance in one measurement and within its expected range of performance in the other measurement, will receive an additional allocation ~~equal to 2.5 percent of its initial allocation~~ to be determined by the commissioner based upon available funds.

(b) Funds remaining unallocated after the performance-based allocations in paragraph (a) are available to the commissioner for innovation projects under subdivision 5.

~~(c)(1) If available funds are insufficient to meet county and tribal allocations under paragraph (a), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.~~

~~(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph (a), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph (a).~~"

Delete the title and insert:

"A bill for an act relating to human services; establishing the work participation rate enhancement program; amending Minnesota Statutes 2004, sections 119B.011, by adding a subdivision; 119B.05, subdivision 1; 256J.021; 256J.08, subdivision 65; 256J.521, subdivision 1; 256J.626, subdivisions 1, 2, 3, 4, 7; proposing coding for new law in Minnesota Statutes, chapter 256J."

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

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

S.F. No. 1279: A bill for an act relating to human services; removing the sunset for a provision exempting certain antihemophilic factor drugs from prior authorization under medical assistance; amending Minnesota Statutes 2004, section 256B.0625, subdivision 13f.

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

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

S.F. No. 1837: A bill for an act relating to human services; changing MinnesotaCare provisions to align with practice; amending Minnesota Statutes 2004, sections 256.045, subdivision 3a; 256B.02, subdivision 12; 256B.056, subdivisions 5, 5a, 5b, 7, by adding subdivisions; 256B.057, subdivision 1; 256B.0644; 256D.045; 256L.01, subdivisions 4, 5; 256L.03, subdivision 1b; 256L.04, subdivision 2, by adding subdivisions; 256L.05, subdivisions 3, 3a; 256L.07, subdivisions 1, 3, by adding a subdivision; 256L.15, subdivisions 2, 3; 549.02, by adding a subdivision; 549.04.

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

Page 7, line 13, reinstate the stricken language

Page 8, line 4, delete "paragraph (a) is" and insert "paragraphs (a) and (b) are"

Page 8, line 6, delete "(b)" and insert "(c)"

Pages 8 and 9, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 2004, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] (a) The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6.

(b) The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice:

(1) persons eligible for medical assistance according to section 256B.055, subdivision 1;

(2) persons eligible for medical assistance due to blindness or disability as determined by the Social Security Administration or the state medical review team, unless:

(i) they are 65 years of age or older; or

(ii) they reside in Itasca County or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act;

(3) recipients who currently have private coverage through a health maintenance organization;

(4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense;

(5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);

(6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20;

(7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20;

(8) persons eligible for medical assistance according to section 256B.057, subdivision 10; and

(9) persons with access to cost-effective employer-sponsored private health insurance or persons enrolled in ~~an~~ non-Medicare individual health plan determined to be cost-effective according to section 256B.0625, subdivision 15.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (1), (6), and (7) may choose to enroll on an elective basis. The commissioner may enroll recipients in the prepaid medical assistance program for seniors who are (1) age 65 and over, and (2) eligible for medical assistance by spending down excess income.

(c) The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state.

(d) The commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under paragraph (b), clauses (1), (3), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L.

(e) Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

(f) An infant born to a woman who is eligible for and receiving medical assistance and who is enrolled in the prepaid medical assistance program shall be retroactively enrolled to the month of birth in the same managed care plan as the mother once the child is enrolled in medical assistance unless the child is determined to be excluded from enrollment in a prepaid plan under this section."

Page 13, line 5, delete "or the month placement is"

Page 13, line 6, delete everything before the period

Page 14, line 5, after the period, insert "The effective date of coverage within the first six-month period of eligibility is as provided in subdivision 3."

Page 20, after line 12, insert:

"Sec. 28. [CLINICAL TRIAL WORK GROUP; REPORT.]

The commissioners of health and commerce shall, in consultation with the commissioner of employee relations, convene a work group regarding health plan coverage of routine care associated with clinical trials. The work group must explore what high-quality clinical trials beyond cancer-only clinical trials should be covered by health plans. All other types of clinical trials, disease-based or technology-based such as drug trials or device trials should be considered. The work group shall use the current, cancer-only model voluntary agreement that includes definitions of high-quality clinical trials, protocol induced costs, and routine care costs as a starting point for discussions. As determined appropriate, the work group shall establish model voluntary agreement guidelines for health plan coverage of routine patient care costs incurred by patients participating in high quality clinical trials. The work group shall be made up of representatives of consumers, patient advocates, health plan companies, fully insured and self-insured purchasers, providers, and other health care professionals involved in the care and treatment of patients. The commissioners shall submit the findings and recommendations of the work group to the chairs of the senate and house committees having jurisdiction over health policy and finance by January 15, 2006.

Sec. 29. [CONSUMER-DIRECTED COMMUNITY SUPPORTS METHODOLOGY.]

For persons using the home and community-based waiver for persons with developmental disabilities whose Consumer-Directed Community Supports budgets were reduced by the October 2004, state-set budget methodology, the commissioner of human services must allow exceptions to exceed the state-set budget formula up to the amount being spent by the person as of September 30, 2004, when the individual's county of financial responsibility determines that:

(1) necessary alternative services will cost the same or more than the person's current budget; and

(2) administrative expenses or provider rates will result in less hours of needed staffing for the person than under the Consumer-Directed Community Supports option. Any exceptions the county grants must be within the county's allowable aggregate amount for the home and community-based waiver for persons with developmental disabilities.

Sec. 30. [COSTS ASSOCIATED WITH PHYSICAL ACTIVITIES.]

The expenses allowed for adults under the Consumer-Directed Community Supports option shall include costs, including transportation, associated with physical exercise or other physical activities to maintain or improve the person's health and functioning.

Sec. 31. [WAIVER AMENDMENT.]

The commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services consistent with sections 29 and 30 by August 1, 2005.

Sec. 32. [INDEPENDENT EVALUATION AND REVIEW OF UNALLOWABLE ITEMS.]

The commissioner of human services shall include in the independent evaluation of the Consumer-Directed Community Supports option provided through the home and community-based services waivers for persons with disabilities under 65 years of age:

(1) provision for ongoing, regular participation by stakeholder representatives through June 30, 2007;

(2) recommendations on whether changes to the unallowable items should be made to meet the health, safety, or welfare needs of participants in the Consumer-Directed Community Supports option within the allowed budget amounts. The recommendations on allowable items shall be provided to the senate and house of representatives committees with jurisdiction over human services policy and finance issues by January 15, 2006; and

(3) a review of the statewide caseload changes for the disability waiver programs for persons under 65 years of age that occurred since the state-set budget methodology implementation on October 1, 2004, and recommendations on the fiscal impact of the budget methodology on use of the Consumer-Directed Community Supports option.

Sec. 33. [EFFECTIVE DATE.]

Sections 29 and 30 are effective upon federal approval of the waiver amendment in section 31. Sections 31 and 32 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 2, after "changing" insert "medical assistance, general assistance, and"

Page 1, line 3, after the semicolon, insert "allowing military enrollees and military families to reenroll at certain times; modifying the Consumer-Directed Community Supports methodology; establishing a clinical trial work group;"

Page 1, line 7, delete "256B.0644" and insert "256B.69, subdivision 4"

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

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

S.F. No. 1368: A bill for an act relating to utilities; requiring establishment and adoption of community-based energy development tariffs; modifying provisions relating to renewable energy resources and objectives; making clarifying changes; amending Minnesota Statutes 2004, sections 216B.1645, subdivision 1, by adding a subdivision; 216B.2425, subdivision 7; 216B.243, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSMISSION COMPANIES

Section 1. Minnesota Statutes 2004, section 216B.02, is amended by adding a subdivision to read:

Subd. 10. [TRANSMISSION COMPANY.] "Transmission company" means persons, corporations, or other legal entities and their lessees, trustees, and receivers, engaged in the business of owning, operating, maintaining, or controlling in this state equipment or facilities for furnishing electric transmission service in Minnesota, but does not include public utilities, municipal electric utilities, municipal power agencies, cooperative electric associations, or generation and transmission cooperative power associations.

Sec. 2. Minnesota Statutes 2004, section 216B.16, is amended by adding a subdivision to read:

Subd. 7b. [TRANSMISSION COST ADJUSTMENT.] (a) Notwithstanding any other provision of this chapter, the commission may approve a tariff mechanism for the automatic annual adjustment of charges for the Minnesota jurisdictional costs of new transmission facilities that have been separately filed and reviewed and approved by the commission under section 216B.243 or are certified as a priority project or deemed to be a priority transmission project under section 216B.2425.

(b) Upon filing by a public utility or utilities providing transmission service, the commission may approve, reject or modify, after notice and comment, a tariff that:

(1) allows the utility to recover on a timely basis the costs net of revenues of facilities approved under section 216B.243 or certified or deemed to be certified under section 216B.2425;

(2) allows a return on investment at the level approved in the utility's last general rate case, unless a different return is found to be consistent with the public interest;

(3) provides a current return on construction work in progress, provided that recovery from Minnesota retail customers for the allowance for funds used during construction is not sought through any other mechanism;

(4) allows for recovery of other expenses if shown to promote a least-cost project option or is otherwise in the public interest;

(5) allocates project costs appropriately between wholesale and retail customers;

(6) provides a mechanism for recovery above cost, if necessary to improve the overall economics of the project or projects or is otherwise in the public interest; and

(7) terminates recovery once costs have been fully recovered or have otherwise been reflected in the utility's general rates.

(c) A public utility may file annual rate adjustments to be applied to customer bills paid under the tariff approved in paragraph (b). In its filing, the public utility shall provide:

(1) a description of and context for the facilities included for recovery;

(2) a schedule for implementation of applicable projects;

(3) the utility's costs for these projects;

(4) a description of the utility's efforts to ensure the lowest costs to ratepayers for the project; and

(5) calculations to establish that the rate adjustment is consistent with the terms of the tariff established in paragraph (b).

(d) Upon receiving a filing for a rate adjustment pursuant to the tariff established in paragraph (b), the commission shall approve the annual rate adjustments provided that, after notice and comment, the costs included for recovery through the tariff were or are expected to be prudently incurred and achieve transmission system improvements at the lowest feasible and prudent cost to ratepayers.

Sec. 3. Minnesota Statutes 2004, section 216B.16, is amended by adding a subdivision to read:

Subd. 7c. [TRANSMISSION ASSETS TRANSFER.] (a) Owners of transmission facilities may transfer operational control or ownership of those assets to a transmission company subject to Federal Energy Regulatory Commission jurisdiction. For asset transfers by a public utility, the Public Utilities Commission may review the request to transfer in the context of a general rate case under this section or may initiate other proceedings it determines provide adequate review of the effect on retail rates of an asset transfer approved under this section sufficient to protect ratepayers. The commission may only approve a transfer sought after the effective date of this section if it finds that the transfer:

(1) is consistent with the public interest;

(2) facilitates the development of transmission infrastructure necessary to ensure reliability, encourages the development of renewable resources, and accommodates energy transfers within and between states;

(3) protects Minnesota ratepayers against the subsidization of wholesale transactions through retail rates; and

(4) ensures, in the case of operational control of transmission assets, that the state retains jurisdiction over the transferring utility for all aspects of service under chapter 216B.

(b) A transfer of operational control or ownership of assets by a public utility under this subdivision is subject to section 216B.50. The relationship between a public utility transferring operational control of assets to another entity under this subdivision is subject to the provisions of section 216B.48. If a public utility transfers ownership of its transmission assets to a transmission provider subject to the jurisdiction of the Federal Energy Regulatory Commission, the Public Utilities Commission may permit the utility to file a rate schedule providing for the automatic adjustment of charges to recover the cost of transmission services purchased under tariff rates approved by the Federal Energy Regulatory Commission.

Sec. 4. Minnesota Statutes 2004, section 216B.2421, subdivision 2, is amended to read:

Subd. 2. [LARGE ENERGY FACILITY.] "Large energy facility" means:

(1) any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system;

(2) any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length;

(3) any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line;

(4) any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil, or their derivatives;

(5) any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota;

(6) any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural gas or synthetic gas;

(7) any underground gas storage facility requiring a permit pursuant to section 103I.681;

(8) any nuclear fuel processing or nuclear waste storage or disposal facility; and

(9) any facility intended to convert any material into any other combustible fuel and having the capacity to process in excess of 75 tons of the material per hour.

Sec. 5. Minnesota Statutes 2004, section 216B.243, subdivision 3, is amended to read:

Subd. 3. [SHOWING REQUIRED FOR CONSTRUCTION.] No proposed large energy facility shall be certified for construction unless the applicant can show that demand for electricity cannot be met more cost effectively through energy conservation and load-management measures and unless the applicant has otherwise justified its need. In assessing need, the commission shall evaluate:

(1) the accuracy of the long-range energy demand forecasts on which the necessity for the facility is based;

(2) the effect of existing or possible energy conservation programs under sections 216C.05 to 216C.30 and this section or other federal or state legislation on long-term energy demand;

(3) the relationship of the proposed facility to overall state energy needs, as described in the most recent state energy policy and conservation report prepared under section 216C.18, or, in the case of a high-voltage transmission line, the relationship of the proposed line to regional energy needs, as presented in the transmission plan submitted under section 216B.2425;

(4) promotional activities that may have given rise to the demand for this facility;

(5) benefits of this facility, including its uses to protect or enhance environmental quality, and to increase reliability of energy supply in Minnesota and the region;

(6) possible alternatives for satisfying the energy demand or transmission needs including but not limited to potential for increased efficiency and upgrading of existing energy generation and transmission facilities, load-management programs, and distributed generation;

(7) the policies, rules, and regulations of other state and federal agencies and local governments; ~~and~~

(8) any feasible combination of energy conservation improvements, required under section 216B.241, that can (i) replace part or all of the energy to be provided by the proposed facility, and (ii) compete with it economically;

(9) with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to improve the robustness of the transmission system or to lower costs to electric consumers;

(10) whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need under this section or for certification as a priority electric

transmission project under section 216B.2425 for any transmission facilities or upgrades identified under section 216B.2425, subdivision 7;

(11) whether the applicant has made the demonstrations required under subdivision 3a; and

(12) if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.

Sec. 6. Minnesota Statutes 2004, section 216B.243, subdivision 6, is amended to read:

Subd. 6. [APPLICATION FEES; RULES.] Any application for a certificate of need shall be accompanied by the application fee required pursuant to this subdivision. The application fee is to be applied toward the total costs reasonably necessary to complete the evaluation of need for the proposed facility. The maximum application fee shall be $50,000, except for an application for an electric power generating plant as defined in section 216B.2421, subdivision 2, clause (1), or a high-voltage transmission line as defined in section 216B.2421, subdivision 2, clause (2), for which the maximum application fee shall be $100,000. ~~The commission may require an additional fee to recover the costs of any rehearing. The fee for a rehearing shall not be greater than the actual cost of the rehearing or the maximum fee specified above, whichever is less.~~ Costs exceeding the application fee and reasonably necessary to complete the evaluation of need for the proposed facility shall be recovered from the applicant. If the applicant is a public utility, a cooperative electric association, a generation and transmission cooperative electric association, a municipal power agency, a municipal electric utility, or a transmission company, the recovery shall be done pursuant to section 216B.62. The commission shall establish by rule pursuant to chapter 14 and sections 216C.05 to 216C.30 and this section, a schedule of fees based on the output or capacity of the facility and the difficulty of assessment of need. Money collected in this manner shall be credited to the general fund of the state treasury.

Sec. 7. Minnesota Statutes 2004, section 216B.2425, subdivision 2, is amended to read:

Subd. 2. [LIST DEVELOPMENT; TRANSMISSION PROJECTS REPORT.] (a) By November 1 of each odd-numbered year, ~~each~~ a transmission projects report must be submitted to the commission by each utility, organization, or company that:

(1) is a public utility, a municipal utility, ~~and~~ a cooperative electric association, ~~or~~ the generation and transmission organization that serves each utility or association, ~~that~~ or a transmission company; and

(2) owns or operates electric transmission lines in Minnesota ~~shall~~.

(b) The report may be submitted jointly or individually ~~submit a transmission projects report~~ to the commission.

(c) The report must:

(1) list specific present and reasonably foreseeable future inadequacies in the transmission system in Minnesota;

(2) identify alternative means of addressing each inadequacy listed;

(3) identify general economic, environmental, and social issues associated with each alternative; and

(4) provide a summary of public input ~~the utilities and associations have gathered~~ related to the list of inadequacies and the role of local government officials and other interested persons in assisting to develop the list and analyze alternatives.

~~(b)~~ (d) To meet the requirements of this subdivision, ~~entities~~ reporting parties may rely on available information and analysis developed by a regional transmission organization or any subgroup of a regional transmission organization and may develop and include additional information as necessary.

Sec. 8. Minnesota Statutes 2004, section 216B.50, subdivision 1, is amended to read:

Subdivision 1. [COMMISSION APPROVAL REQUIRED.] No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of $100,000, or merge or consolidate with another public utility or transmission company operating in this state, without first being authorized so to do by the commission. Upon the filing of an application for the approval and consent of the commission ~~thereto~~, the commission shall investigate, with or without public hearing~~, and in case of~~. The commission shall hold a public hearing, upon such notice as the commission may require~~, and if it shall find~~. If the commission finds that the proposed action is consistent with the public interest, it shall give its consent and approval by order in writing. In reaching its determination, the commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated. ~~The provisions of~~

This section ~~shall~~ does not ~~be construed as applicable~~ apply to the purchase of ~~units of~~ property ~~for replacement or to the addition~~ to replace or add to the plant of the public utility by construction.

Sec. 9. Minnesota Statutes 2004, section 216B.62, subdivision 5, is amended to read:

Subd. 5. [ASSESSING COOPERATIVES AND MUNICIPALS.] The commission and department may charge cooperative electric associations, generation and transmission cooperative electric associations, municipal power agencies, and municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes, proceedings under section 216B.1691, 216B.2425, or 216B.243, and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

Sec. 10. Minnesota Statutes 2004, section 216B.62, is amended by adding a subdivision to read:

Subd. 5a. [ASSESSING TRANSMISSION COMPANIES.] The commission and department may charge transmission companies their proportionate share of the expenses incurred in the review and disposition of proceedings under sections 216B.2425, 216B.243, 216B.48, 216B.50, and 216B.79. A transmission company is not liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A transmission company may object to and appeal bills of the commission and department as provided in subdivision 4.

Sec. 11. Minnesota Statutes 2004, section 216B.79, is amended to read:

216B.79 [PREVENTATIVE MAINTENANCE.]

The commission may order public utilities to make adequate infrastructure investments and undertake sufficient preventative maintenance with regard to generation, transmission, and distribution facilities. The commission's authority under this section also applies to any transmission company that owns or operates electric transmission lines in Minnesota.

Sec. 12. [STAKEHOLDER PROCESS AND REPORT.]

Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the Legislative Electric Energy Task Force shall convene a stakeholder group consisting of one representative from each of the following groups: transmission-owning investor-owned utilities, electric cooperatives, municipal power agencies, energy consumer advocates, business energy consumer advocates, residential energy consumer advocates, environmental organizations, the Minnesota Department of Commerce, the Minnesota Environmental Quality Board, and the Minnesota Public Utilities Commission.

Subd. 2. [CHARGE.] (a) The stakeholder group shall explore whether increased efficiencies and effectiveness can be obtained through modifying current state statutes and administrative processes to certify and route high-voltage transmission lines, including modifications to section 216B.243.

(b) In developing its recommendations, the stakeholder group shall consider:

(1) whether the certification process established under section 216B.2425, subdivision 3, can be modified to encourage utilities to apply for certification under that section;

(2) whether alternative certification processes are feasible for different types of transmission facilities; and

(3) whether additional cooperation between state agencies is needed to enhance the efficiency of the certification and routing processes, and whether modifications to those processes are appropriate.

(c) The stakeholder group shall also consider and make recommendations regarding whether and how to provide compensation above traditional eminent domain payments to landowners over whose property a new transmission facility is constructed.

Subd. 3. [REPORT.] By January 15, 2006, the task force shall submit a report to the legislature summarizing the stakeholder group findings and any recommended changes to the certification and routing processes for high-voltage transmission lines.

ARTICLE 2

C-BED AND RENEWABLE TRANSMISSION

Section 1. [216B.1612] [COMMUNITY-BASED ENERGY DEVELOPMENT; TARIFF.]

Subdivision 1. [TARIFF ESTABLISHMENT.] A tariff shall be established to optimize local, regional, and state benefits from wind energy development, and to facilitate widespread development of community-based wind energy projects throughout Minnesota.

Subd. 2. [DEFINITIONS.] (a) The terms used in this section have the meanings given them in this subdivision.

(b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

(c) "Qualifying owner" means:

(1) a Minnesota resident;

(2) a limited liability corporation that is organized under the laws of this state and that is made up of members who are Minnesota residents;

(3) a Minnesota nonprofit organization organized under chapter 317A;

(4) a Minnesota cooperative association organized under chapter 308A or 308B, other than a rural electric cooperative association or a generation and transmission cooperative;

(5) a Minnesota political subdivision or local government other than a municipal electric utility or municipal power agency, including, but not limited to, a county, statutory or home rule charter city, town, school district, or public or private higher education institution or any other local or regional governmental organization such as a board, commission, or association; or

(6) a tribal council.

(d) "Net present value rate" means a rate equal to the net present value of the nominal payments to a project divided by the total expected energy production of the project over the life of its power purchase agreement.

(e) "Standard reliability criteria" means:

(1) can be safely integrated into and operated within the utility's grid without causing any adverse or unsafe consequences; and

(2) is consistent with the utility's resource needs as identified in its most recent resource plan submitted under section 216B.2422.

(f) "Community-based energy project" or "C-BED project" means a new wind energy project that:

(1) has no single qualifying owner owning more than 15 percent of a C-BED project that consists of more than two turbines; or

(2) for C-BED projects of one or two turbines, is owned entirely by one or more qualifying owners, with at least 51 percent of the total financial benefits over the life of the project flowing to qualifying owners; and

(3) has a resolution of support adopted by the county board of each county in which the project is to be located, or in the case of a project located within the boundaries of a reservation, the tribal council for that reservation.

Subd. 3. [TARIFF RATE.] (a) The tariff described in subdivision 4 must have a rate schedule that allows for a rate up to a 2.7 cents per kilowatt hour net present value rate over the 20-year life of the power purchase agreement. The tariff must provide for a rate that is higher in the first ten years of the power purchase agreement than in the last ten years. The discount rate required to calculate the net present value must be the utility's normal discount rate used for its other business purposes.

(b) The commission shall consider mechanisms to encourage the aggregation of C-BED projects.

(c) The commission shall require that qualifying owners provide sufficient security to secure performance under the power purchase agreement, and shall prohibit the transfer of the C-BED project to a nonqualifying owner during the initial 20 years of the contract.

Subd. 4. [UTILITIES TO OFFER TARIFF.] By December 1, 2005, each public utility providing electric service at retail shall file for commission approval a community-based energy development tariff consistent with subdivision 3. Within 90 days of the first commission approval order under this subdivision, each municipal power agency and generation and transmission cooperative electric association shall adopt a community-based energy development tariff as consistent as possible with subdivision 3.

Subd. 5. [PRIORITY FOR C-BED PROJECTS.] (a) A utility subject to section 216B.1691 that needs to construct new generation, or purchase the output from new generation, as part of its plan to satisfy its good faith objective under that section should take reasonable steps to determine if one or more C-BED projects are available that meet the utility's cost and reliability requirements, applying standard reliability criteria, to fulfill some or all of the identified need at minimal impact to customer rates.

Nothing in this section shall be construed to obligate a utility to enter into a power purchase agreement under a C-BED tariff developed under this section.

(b) Each utility shall include in its resource plan submitted under section 216B.2422 a description of its efforts to purchase energy from C-BED projects, including a list of the projects under contract and the amount of C-BED energy purchased.

(c) The commission shall consider the efforts and activities of a utility to purchase energy from C-BED projects when evaluating its good faith effort towards meeting the renewable energy objective under section 216B.1691.

Subd. 6. [PROPERTY OWNER PARTICIPATION.] To the extent feasible, a developer of a C-BED project must provide, in writing, an opportunity to invest in the C-BED project to each property owner on whose property a high voltage transmission line transmitting the energy generated by the C-BED project to market currently exists or is to be constructed and who resides in the county where the C-BED project is located or in an adjacent Minnesota county.

Subd. 7. [OTHER C-BED TARIFF ISSUES.] (a) A community-based project developer and a utility shall negotiate the rate and power purchase agreement terms consistent with the tariff established under subdivision 4.

(b) At the discretion of the developer, a community-based project developer and a utility may negotiate a power purchase agreement with terms different from the tariff established under subdivision 4.

(c) A qualifying owner, or any combination of qualifying owners, may develop a joint venture project with a nonqualifying wind energy project developer. However, the terms of the C-BED tariff may only apply to the portion of the energy production of the total project that is directly proportional to the equity share of the project owned by the qualifying owners.

(d) A project that is operating under a power purchase agreement under a C-BED tariff is not eligible for net energy billing under section 216B.164, subdivision 3, or for production incentives under section 216C.41.

(e) A public utility must receive commission approval of a power purchase agreement for a C-BED tariffed project. The commission shall provide the utility's ratepayers an opportunity to address the reasonableness of the proposed power purchase agreement. Unless a party objects to a contract within 30 days of submission of the contract to the commission the contract is deemed approved.

Sec. 2. Minnesota Statutes 2004, section 216B.1645, subdivision 1, is amended to read:

Subdivision 1. [COMMISSION AUTHORITY.] Upon the petition of a public utility, the Public Utilities Commission shall approve or disapprove power purchase contracts, investments, or expenditures entered into or made by the utility to satisfy the wind and biomass mandates contained in sections 216B.169, 216B.2423, and 216B.2424, and to satisfy the renewable energy objectives set forth in section 216B.1691, including reasonable investments and expenditures made to:

(1) transmit the electricity generated from sources developed under those sections that is ultimately used to provide service to the utility's retail customers, ~~or to~~ including studies necessary to identify new transmission facilities needed to transmit electricity to Minnesota retail customers from generating facilities constructed to satisfy the renewable energy objectives, provided that the costs of the studies have not been recovered previously under existing tariffs and the utility has filed an application for a certificate of need or for certification as a priority project under section 216B.2425 for the new transmission facilities identified in the studies; or

(2) develop renewable energy sources from the account required in section 116C.779.

Sec. 3. Minnesota Statutes 2004, section 216B.2425, subdivision 7, is amended to read:

Subd. 7. [TRANSMISSION NEEDED TO SUPPORT RENEWABLE RESOURCES.] Each entity subject to this section shall determine necessary transmission upgrades to support development of renewable energy resources required to meet objectives under section 216B.1691 and shall include those upgrades in its report under subdivision 2. Transmission projects determined by the commission to be necessary to support a utility's plan under section 216B.1691 to meet its obligations under that section must be certified as a priority electric transmission project, satisfying the requirements of section 216B.243. In determining that a proposed

transmission project is necessary to support a utility's plan under section 216B.1691, the commission must find that the applicant has met the following factors:

(1) that the transmission facility is necessary to allow the delivery of power from renewable sources of energy to retail customers in Minnesota;

(2) that the applicant has signed or will sign power purchase agreements, subject to commission approval, for resources to meet the renewable energy objective that are dependent upon or will use the capacity of the transmission facility to serve retail customers in Minnesota;

(3) that the installation and commercial operation date of the renewable resources to satisfy the renewable energy objective will match the planned in-service date of the transmission facility; and

(4) that the proposed transmission facility is consistent with a least cost solution to the utility's need for additional electricity.

Sec. 4. Minnesota Statutes 2004, section 216B.243, subdivision 8, is amended to read:

Subd. 8. [EXEMPTIONS.] This section does not apply to:

(1) cogeneration or small power production facilities as defined in the Federal Power Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and paragraph (18), subparagraph (A), and having a combined capacity at a single site of less than 80,000 kilowatts ~~or to~~; plants or facilities for the production of ethanol or fuel alcohol ~~nor in~~; or any case where the commission ~~shall determine~~ has determined after being advised by the attorney general that its application has been preempted by federal law;

(2) a high-voltage transmission line proposed primarily to distribute electricity to serve the demand of a single customer at a single location, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(3) the upgrade to a higher voltage of an existing transmission line that serves the demand of a single customer that primarily uses existing rights-of-way, unless the applicant opts to request that the commission determine need under this section or section 216B.2425;

(4) a high-voltage transmission line of one mile or less required to connect a new or upgraded substation to an existing, new, or upgraded high-voltage transmission line;

(5) conversion of the fuel source of an existing electric generating plant to using natural gas; ~~or~~

(6) the modification of an existing electric generating plant to increase efficiency, as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater; or

(7) a large energy facility that (i) generates electricity from wind energy conversion systems, (ii) will serve retail customers in Minnesota, (iii) is specifically intended to be used to meet the renewable energy objective under section 216B.1691 or addresses a resource need identified in a current commission-approved or commission-reviewed resource plan under section 216B.2422; and (iv) derives at least 10 percent of the total nameplate capacity of the proposed project from one or more C-BED projects, as defined under section 216B.1612, subdivision 2, paragraph (f).

Sec. 5. [216C.053] [RENEWABLE ENERGY DEVELOPMENT.]

The Department of Commerce shall assist utilities, renewable energy developers, regulators, regional transmission grid managers, and the public on issues related to renewable energy development. The department shall work to ensure cost-effective renewable energy development throughout the state.

Sec. 6. [WIND INTEGRATION STUDY.]

The commission shall order all electric utilities, as defined in Minnesota Statutes, section 216B.1691, subdivision 1, paragraph (b), to participate in a statewide wind integration study.

Utilities subject to Minnesota Statutes, section 216B.1691, shall jointly contract with an independent firm selected by the reliability administrator to conduct an engineering study of the impacts on reliability and costs associated with increasing wind capacity to 20 percent of Minnesota retail electric energy sales by the year 2020, and to identify and develop options for utilities to use to manage the intermittent nature of wind resources. The contracting utilities shall cooperate with the firm conducting the study by providing data requested. The reliability administrator shall manage the study process and shall appoint a group of stakeholders with experience in engineering and expertise in power systems or wind energy to review the study's proposed methods and assumptions and preliminary data. The study must be completed by November 30, 2006. Using the study results, the contracting utilities shall provide the commissioner of commerce with estimates of the impact on their electric rates of increasing wind capacity to 20 percent, assuming no reduction in reliability. Electric utilities shall incorporate the study's findings into their utility integrated resource plans prepared under Minnesota Statutes, section 216B.2422. The costs of the study are recoverable under Minnesota Statutes, section 216C.052, subdivision 2, paragraph (c), clause (2).

Sec. 7. [EXPIRATION.]

Section 3 expires on January 1, 2010.

ARTICLE 3

ROUTING AND SITING AUTHORITY TRANSFER

Section 1. Minnesota Statutes 2004, section 116C.52, subdivision 2, is amended to read:

Subd. 2. [~~BOARD~~ COMMISSION.] ~~"Board" shall mean the Minnesota Environmental Quality Board~~ "Commission" means the Public Utilities Commission.

Sec. 2. Minnesota Statutes 2004, section 116C.52, subdivision 4, is amended to read:

Subd. 4. [HIGH VOLTAGE TRANSMISSION LINE.] "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length.

Sec. 3. Minnesota Statutes 2004, section 116C.53, subdivision 2, is amended to read:

Subd. 2. [JURISDICTION.] The ~~board~~ commission is hereby given the authority to provide for site and route selection for large electric power facilities. The ~~board~~ commission shall issue permits for large electric power facilities in a timely fashion~~. When the Public Utilities Commission has determined the~~ and in a manner consistent with the overall determination of need for the project under section 216B.243 or 216B.2425~~,~~. Questions of need, including size, type, and timing; alternative system configurations; and voltage ~~are not within the board's siting and routing authority and~~ must not be included in the scope of environmental review conducted under sections 116C.51 to 116C.69.

Sec. 4. Minnesota Statutes 2004, section 116C.57, subdivision 1, is amended to read:

Subdivision 1. [SITE PERMIT.] No person may construct a large electric generating plant without a site permit from the ~~board~~ commission. A large electric generating plant may be constructed only on a site approved by the ~~board~~ commission. The ~~board~~ commission must incorporate into one proceeding the route selection for a high voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant to the transmission system and whose need is certified ~~as part of the generating plant project by the Public Utilities Commission~~ under section 216B.243.

Sec. 5. Minnesota Statutes 2004, section 116C.57, subdivision 2c, is amended to read:

Subd. 2c. [ENVIRONMENTAL REVIEW.] The ~~board~~ commissioner of the Department of Commerce shall prepare for the commission an environmental impact statement on each proposed large electric generating plant or high voltage transmission line for which a complete application has been submitted. ~~For any project that has obtained a certificate of need from the Public Utilities~~

~~Commission, the board~~ The commissioner shall not consider whether or not the project is needed. No other state environmental review documents shall be required. The ~~board~~ commissioner shall study and evaluate any site or route proposed by an applicant and any other site or route the ~~board~~ commission deems necessary that was proposed in a manner consistent with rules ~~adopted by the board~~ concerning the form, content, and timeliness of proposals for alternate sites or routes.

Sec. 6. Minnesota Statutes 2004, section 116C.57, is amended by adding a subdivision to read:

Subd. 9. [DEPARTMENT OF COMMERCE TO PROVIDE TECHNICAL EXPERTISE AND OTHER ASSISTANCE.] The commissioner of the Department of Commerce shall consult with other state agencies and provide technical expertise and other assistance to the commission for activities and proceedings under this section, sections 116C.51 to 116C.697, and chapter 116I. The commissioner shall periodically report to the commission concerning the Department of Commerce's costs of providing assistance. The report shall conform to the schedule and include the required contents specified by the commission. The commission shall include the costs of the assistance in assessments for activities and proceedings under those sections and reimburse the special revenue fund for those costs.

Sec. 7. Minnesota Statutes 2004, section 116C.575, subdivision 5, is amended to read:

Subd. 5. [ENVIRONMENTAL REVIEW.] For the projects identified in subdivision 2 and following these procedures, the ~~board~~ commissioner of the Department of Commerce shall prepare for the commission an environmental assessment. The environmental assessment shall contain information on the human and environmental impacts of the proposed project and other sites or routes identified by the ~~board~~ commission and shall address mitigating measures for all of the sites or routes considered. The environmental assessment shall be the only state environmental review document required to be prepared on the project.

Sec. 8. Minnesota Statutes 2004, section 116C.577, is amended to read:

116C.577 [EMERGENCY PERMIT.]

(a) Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the ~~board~~ commission for an emergency permit ~~after providing~~. The application shall provide notice in writing ~~to the Public Utilities Commission~~ of the major unforeseen event and the need for immediate construction. The permit must be issued in a timely manner, no later than 195 days after the ~~board's~~ commission's acceptance of the application and upon a finding by the ~~board~~ commission that (1) a demonstrable emergency exists, (2) the emergency requires immediate construction, and (3) adherence to the procedures and time schedules specified in section 116C.57 would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner.

(b) A public hearing to determine if an emergency exists must be held within 90 days of the application. The ~~board~~ commission, after notice and hearing, shall adopt rules specifying the criteria for emergency certification.

Sec. 9. Minnesota Statutes 2004, section 116C.58, is amended to read:

116C.58 [ANNUAL HEARING.]

The ~~board~~ commission shall hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding any matters relating to the siting of large electric generating power plants and routing of high voltage transmission lines. At the meeting, the ~~board~~ commission shall advise the public of the permits issued by the ~~board~~ commission in the past year. The ~~board~~ commission shall provide at least ten days but no more than 45 days' notice of the annual meeting by mailing notice to those persons who have requested notice and by publication in the EQB Monitor and the commission's weekly calendar.

Sec. 10. Minnesota Statutes 2004, section 116C.61, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY PARTICIPATION.] (a) State agencies authorized to issue permits required for construction or operation of large electric power generating plants or high voltage transmission lines shall participate during routing and siting at public hearings and all other activities of the board on specific site or route designations and design considerations of the board, and shall clearly state whether the site or route being considered for designation or permit and other design matters under consideration for approval will be in compliance with state agency standards, rules, or policies.

(b) An applicant for a permit under this section or under chapter 116I shall notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land, as that term is defined in section 116I.01, subdivision 4. The commissioner may participate and advise the commission as to whether to grant a permit for the project and the best options for mitigating adverse impacts to agricultural lands if the permit is granted. The Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project.

Sec. 11. Minnesota Statutes 2004, section 116C.69, subdivision 2, is amended to read:

Subd. 2. [SITE APPLICATION FEE.] Every applicant for a site permit shall pay to the ~~board~~ commission a fee ~~in an amount equal to $500 for each $1,000,000 of production plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production plant investment ($1,000 for each $1,000,000)~~ to cover the necessary and reasonable costs incurred by the commission in acting on the permit application and carrying out the requirements of sections 116C.51 to 116C.69. The commission may adopt rules providing for the payment of the fee. Section 16A.1283 does not apply to establishment of this fee. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the ~~board~~ commission to pay expenses incurred in processing applications for site permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Sec. 12. Minnesota Statutes 2004, section 116C.69, subdivision 2a, is amended to read:

Subd. 2a. [ROUTE APPLICATION FEE.] Every applicant for a transmission line route permit shall pay to the ~~board~~ commission a ~~base fee of $35,000 plus a fee in an amount equal to $1,000 per mile length of the longest proposed route. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. In the event the actual cost of processing an application up to the board's final decision to designate a route exceeds the above fee schedule, the board may assess the applicant any additional fees necessary to cover the actual costs, not to exceed an amount equal to $500 per mile length of the longest proposed route~~ fee to cover the necessary and reasonable costs incurred by the commission in acting on the permit application and carrying out the requirements of sections 116C.51 to 116C.69. The commission may adopt rules providing for the payment of the fee. Section 16A.1283 does not apply to the establishment of this fee. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the ~~board~~ commission to pay expenses incurred in processing applications for route permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Sec. 13. Minnesota Statutes 2004, section 216B.243, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FOR CERTIFICATE; HEARING.] Any person proposing to construct a large energy facility shall apply for a certificate of need ~~prior to applying~~ and for a site or route permit under sections 116C.51 to 116C.69 ~~or~~ prior to construction of the facility. The application shall be on forms and in a manner established by the commission. In reviewing each

application the commission shall hold at least one public hearing pursuant to chapter 14. The public hearing shall be held at a location and hour reasonably calculated to be convenient for the public. An objective of the public hearing shall be to obtain public opinion on the necessity of granting a certificate of need and, if a joint hearing is held, a site or route permit. The commission shall designate a commission employee whose duty shall be to facilitate citizen participation in the hearing process. ~~If~~ Unless the commission ~~and the Environmental Quality Board determine~~ determines that a joint hearing on siting and need under this subdivision and section 116C.57, subdivision 2d, is not feasible~~,~~ or more efficient, ~~and may further~~ or otherwise not in the public interest, a joint hearing under those subdivisions ~~may~~ shall be held.

Sec. 14. Minnesota Statutes 2004, section 216B.243, subdivision 5, is amended to read:

Subd. 5. [APPROVAL, DENIAL, OR MODIFICATION.] Within ~~six~~ 12 months of the submission of an application, the commission shall approve or deny a certificate of need for the facility. Approval or denial of the certificate shall be accompanied by a statement of the reasons for the decision. Issuance of the certificate may be made contingent upon modifications required by the commission. If the commission has not issued an order on the application within the 12 months provided, the commission may extend the time period upon receiving the consent of the parties or on its own motion, for good cause, by issuing an order explaining the good cause justification for extension.

Sec. 15. Minnesota Statutes 2004, section 216B.243, subdivision 7, is amended to read:

Subd. 7. [PARTICIPATION BY OTHER AGENCY OR POLITICAL SUBDIVISION.] (a) Other state agencies authorized to issue permits for siting, construction or operation of large energy facilities, and those state agencies authorized to participate in matters before the commission involving utility rates and adequacy of utility services, shall present their position regarding need and participate in the public hearing process prior to the issuance or denial of a certificate of need. Issuance or denial of certificates of need shall be the sole and exclusive prerogative of the commission and these determinations and certificates shall be binding upon other state departments and agencies, regional, county, and local governments and special purpose government districts except as provided in sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

(b) An applicant for a certificate of need shall notify the commissioner of agriculture if the proposed project will impact cultivated agricultural land, as that term is defined in section 116I.01, subdivision 4. The commissioner may participate in any proceeding on the application and advise the commission as to whether to grant the certificate of need, and the best options for mitigating adverse impacts to agricultural lands if the certificate is granted. The Department of Agriculture shall be the lead agency on the development of any agricultural mitigation plan required for the project.

Sec. 16. Minnesota Statutes 2004, section 216C.052, is amended to read:

216C.052 [RELIABILITY ADMINISTRATOR.]

Subdivision 1. [RESPONSIBILITIES.] (a) There is established the position of reliability administrator in the ~~Department of Commerce~~ Public Utilities Commission. The administrator shall act as a source of independent expertise and a technical advisor to ~~the commissioner,~~ the commission~~,~~ and the public~~, and the Legislative Electric Energy Task Force~~ on issues related to the reliability of the electric system. In conducting its work, the administrator shall provide assistance to the commission in administering and implementing the commission's duties under sections 116C.51 to 116C.69; 116C.691 to 116C.697; 216B.2422; 216B.2425; 216B.243; chapter 116I; and rules associated with those sections. Subject to resource constraints, the reliability administrator may also:

(1) model and monitor the use and operation of the energy infrastructure in the state, including generation facilities, transmission lines, natural gas pipelines, and other energy infrastructure;

(2) develop and present to the commission and parties technical analyses of proposed infrastructure projects, and provide technical advice to the commission;

(3) present independent, factual, expert, and technical information on infrastructure proposals and reliability issues at public meetings hosted by the task force, the Environmental Quality Board, the department, or the commission.

(b) Upon request and subject to resource constraints, the administrator shall provide technical assistance regarding matters unrelated to applications for infrastructure improvements to the task force, the department, or the commission.

(c) The administrator may not advocate for any particular outcome in a commission proceeding, but may give technical advice to the commission as to the impact on the reliability of the energy system of a particular project or projects. ~~The administrator must not be considered a party or a participant in any proceeding before the commission.~~

Subd. 2. [ADMINISTRATIVE ISSUES.] (a) The ~~commissioner~~ commission may select the administrator who shall serve for a four-year term. The administrator may not have been a party or a participant in a commission energy proceeding for at least one year prior to selection by the ~~commissioner~~ commission. The ~~commissioner~~ commission shall oversee and direct the work of the administrator, annually review the expenses of the administrator, and annually approve the budget of the administrator. Pursuant to commission approval, the administrator may hire staff and may contract for technical expertise in performing duties when existing state resources are required for other state responsibilities or when special expertise is required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

(b) Costs relating to a specific proceeding, analysis, or project are not general administrative costs. For purposes of this section, "energy utility" means public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing natural gas or electric service in the state.

(c) The ~~Department of Commerce~~ commission shall pay:

(1) the general administrative costs of the administrator, not to exceed $1,000,000 in a fiscal year, and shall assess energy utilities for those administrative costs. These costs must be consistent with the budget approved by the ~~commissioner~~ commission under paragraph (a). The ~~department~~ commission shall apportion the costs among all energy utilities in proportion to their respective gross operating revenues from sales of gas or electric service within the state during the last calendar year, and shall then render a bill to each utility on a regular basis; and

(2) costs relating to a specific proceeding analysis or project and shall render a bill to the specific energy utility or utilities participating in the proceeding, analysis, or project directly, either at the conclusion of a particular proceeding, analysis, or project, or from time to time during the course of the proceeding, analysis, or project.

(d) For purposes of administrative efficiency, the ~~department~~ commission shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision. The amount of the bills rendered by the ~~department~~ commission under paragraph (c) must be paid by the energy utility into an account in the special revenue fund in the state treasury within 30 days from the date of billing and is appropriated to the ~~commissioner~~ commission for the purposes provided in this section. The commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover amounts paid by utilities under this section. All amounts assessed under this section are in addition to amounts appropriated to the commission ~~and the department~~ by other law.

Subd. 3. [ASSESSMENT AND APPROPRIATION.] In addition to the amount noted in subdivision 2, the ~~commissioner~~ commission may assess utilities, using the mechanism specified in that subdivision, up to an additional $500,000 annually through June 30, 2006. The amounts assessed under this subdivision are appropriated to the ~~commissioner~~ commission, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement those sections.

Subd. 4. [EXPIRATION.] This section expires June 30, ~~2006~~ 2007.

Sec. 17. [TRANSFERRING POWER PLANT SITING RESPONSIBILITIES.]

To ensure greater public participation in energy infrastructure approval proceedings and to better integrate and align state energy and environmental policy goals with economic decisions involving large energy infrastructure, all responsibilities, as defined in Minnesota Statutes, section 15.039, subdivision 1, held by the Environmental Quality Board relating to power plant siting and routing under Minnesota Statutes, sections 116C.51 to 116C.69; wind energy conversion systems under Minnesota Statutes, sections 116C.691 to 116C.697; pipelines under Minnesota Statutes, chapter 116I; and rules associated with those sections are transferred to the Public Utilities Commission under Minnesota Statutes, section 15.039, except that the responsibilities of the Environmental Quality Board under Minnesota Statutes, section 116C.83, subdivision 6, and Minnesota Rules, parts 4400.1700, 4400.2750, and 4410.7010 to 4410.7070, are transferred to the commissioner of the Department of Commerce. The power plan siting staff of the Environmental Quality Board are transferred to the Department of Commerce. The department's budget shall be adjusted to reflect the transfer.

The Department of Commerce and the Public Utilities Commission shall carry out these duties in accordance with the provisions of Minnesota Statutes, section 116D.03.

Sec. 18. [TRANSFERRING RELIABILITY ADMINISTRATOR RESPONSIBILITIES.]

All responsibilities, as defined in Minnesota Statutes 2004, section 15.039, subdivision 1, held by the Minnesota Department of Commerce relating to the reliability administrator under Minnesota Statutes, section 216C.052, are transferred to the Minnesota Public Utilities Commission under Minnesota Statutes, section 15.039.

Sec. 19. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes shall change the words "Environmental Quality Board," "board," "chair of the board," "chair," "board's," and similar terms, when they refer to the Environmental Quality Board or chair of the Environmental Quality Board, to the term "Public Utilities Commission," "commission," or "commission's," as appropriate, where they appear in Minnesota Statutes, sections 13.741, subdivision 3, 116C.51 to 116C.697, and chapter 116I. The revisor shall also make those changes in Minnesota Rules, chapters 4400, 4401, and 4415, except as specified in paragraph (b).

(b) The revisor of statutes shall change the words "Environmental Quality Board," "board," "chair of the board," "chair," "board's," and similar terms, when they refer to the Environmental Quality Board or chair of the Environmental Quality Board, to the term "commissioner of the Department of Commerce," "commissioner," or "commissioner's," as appropriate, where they appear in Minnesota Statutes, section 116C.83, subdivision 6; and Minnesota Rules, parts 4400.1700, subparts 1 to 9, 11, and 12; 4400.2750; and 4410.7010 to 4410.7070.

Sec. 20. [EFFECTIVE DATE.]

Sections 1 to 18 are effective July 1, 2005.

ARTICLE 4

ENERGY ASSISTANCE TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 2004, section 13.681, is amended by adding a subdivision to read:

Subd. 5. [ENERGY PROGRAMS.] Treatment of data on individuals applying for benefits or services under energy programs is governed by section 216C.266.

Sec. 2. Minnesota Statutes 2004, section 119A.15, subdivision 5a, is amended to read:

Subd. 5a. [EXCLUDED PROGRAMS.] Programs transferred to the Department of Education

from the Department of Employment and Economic Development may not be included in the consolidated funding account and are ineligible for local consolidation. The commissioner may not apply for federal waivers to include these programs in funding consolidation initiatives. The programs include the following:

(1) programs for the homeless under sections 116L.365 and 119A.43;

(2) emergency energy assistance and energy conservation programs under sections ~~119A.40 and 119A.42~~ 216C.263 and 216C.265;

(3) weatherization programs under section ~~119A.41~~ 216C.264;

(4) foodshelf programs under section 119A.44 and the emergency food assistance program; and

(5) lead abatement programs under section 119A.45.

Sec. 3. Minnesota Statutes 2004, section 216C.09, is amended to read:

216C.09 [COMMISSIONER DUTIES.]

(a) The commissioner shall:

(1) manage the department as the central repository within the state government for the collection of data on energy;

(2) prepare and adopt an emergency allocation plan specifying actions to be taken in the event of an impending serious shortage of energy, or a threat to public health, safety, or welfare;

(3) undertake a continuing assessment of trends in the consumption of all forms of energy and analyze the social, economic, and environmental consequences of these trends;

(4) carry out energy conservation measures as specified by the legislature and recommend to the governor and the legislature additional energy policies and conservation measures as required to meet the objectives of sections 216C.05 to 216C.30;

(5) collect and analyze data relating to present and future demands and resources for all sources of energy;

(6) evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and other goals and policies of sections 216C.05 to 216C.30, and make recommendations for changes in energy pricing policies and rate schedules;

(7) study the impact and relationship of the state energy policies to international, national, and regional energy policies;

(8) design and implement a state program for the conservation of energy; this program shall include but not be limited to, general commercial, industrial, and residential, and transportation areas; such program shall also provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air conditioning, building design and operation, and appliance manufacturing and operation;

(9) inform and educate the public about the sources and uses of energy and the ways in which persons can conserve energy;

(10) dispense funds made available for the purpose of research studies and projects of professional and civic orientation, which are related to either energy conservation, resource recovery, or the development of alternative energy technologies which conserve nonrenewable energy resources while creating minimum environmental impact;

(11) charge other governmental departments and agencies involved in energy-related activities with specific information gathering goals and require that those goals be met;

(12) design a comprehensive program for the development of indigenous energy resources. The program shall include, but not be limited to, providing technical, informational, educational, and financial services and materials to persons, businesses, municipalities, and organizations involved in the development of solar, wind, hydropower, peat, fiber fuels, biomass, and other alternative energy resources. The program shall be evaluated by the alternative energy technical activity; and

(13) dispense loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum-pricing regulations made available to the department for that purpose. The commissioner shall adopt rules under chapter 14 for this purpose. ~~Money dispersed under this clause must not include money received as a result of the settlement of the parties and order of the United States District Court for the District of Kansas in the case of In Re Department of Energy Stripper Well Exemption Litigation, 578 F. Supp. 586 (D.Kan. 1983) and all money received after August 1, 1988, by the governor, the commissioner of finance, or any other state agency resulting from overcharges by oil companies in violation of federal law.~~

(b) Further, the commissioner may participate fully in hearings before the Public Utilities Commission on matters pertaining to rate design, cost allocation, efficient resource utilization, utility conservation investments, small power production, cogeneration, and other rate issues. The commissioner shall support the policies stated in section 216C.05 and shall prepare and defend testimony proposed to encourage energy conservation improvements as defined in section 216B.241.

Sec. 4. Minnesota Statutes 2004, section 462A.05, subdivision 21, is amended to read:

Subd. 21. [RENTAL PROPERTY LOANS.] The agency may make or purchase loans to owners of rental property that is occupied or intended for occupancy primarily by low- and moderate-income tenants and which does not comply with the standards established in section ~~216C.27~~ 16B.61, subdivision ~~3~~ 1, for the purpose of energy improvements necessary to bring the property into full or partial compliance with these standards. For property which meets the other requirements of this subdivision, a loan may also be used for moderate rehabilitation of the property. The authority granted in this subdivision is in addition to and not in limitation of any other authority granted to the agency in this chapter. The limitations on eligible mortgagors contained in section 462A.03, subdivision 13, do not apply to loans under this subdivision. Loans for the improvement of rental property pursuant to this subdivision may contain provisions that repayment is not required in whole or in part subject to terms and conditions determined by the agency to be necessary and desirable to encourage owners to maximize rehabilitation of properties.

Sec. 5. Minnesota Statutes 2004, section 462A.05, subdivision 23, is amended to read:

Subd. 23. [INSURING FINANCIAL INSTITUTION LOANS.] The agency may participate in loans or establish a fund to insure loans, or portions of loans, that are made by any banking institution, savings association, or other lender approved by the agency, organized under the laws of this or any other state or of the United States having an office in this state, to owners of renter occupied homes or apartments that do not comply with standards set forth in section ~~216C.27~~ 16B.61, subdivision ~~3~~ 1, without limitations relating to the maximum incomes of the owners or tenants. The proceeds of the insured portion of the loan must be used to pay the costs of improvements, including all related structural and other improvements, that will reduce energy consumption.

Sec. 6. [RECODIFICATION.]

Minnesota Statutes 2004, sections 119A.40; 119A.41; 119A.42; 119A.425; and 216C.27, subdivision 8, are recodified as sections 216C.263; 216C.264; 216C.265; 216C.266; and 16B.61, subdivision 8, respectively.

ARTICLE 5

WOODY BIOMASS MANDATE PROJECT

Section 1. Minnesota Statutes 2004, section 216B.2424, subdivision 1, is amended to read:

Subdivision 1. [FARM-GROWN CLOSED-LOOP BIOMASS.] (a) For the purposes of this section, "farm-grown closed-loop biomass" means biomass, as defined in section 216C.051, subdivision 7, that:

(1) is intentionally cultivated, harvested, and prepared for use, in whole or in part, as a fuel for the generation of electricity;

(2) when combusted, releases an amount of carbon dioxide that is less than or approximately equal to the carbon dioxide absorbed by the biomass fuel during its growing cycle; and

(3) is fired in a new or substantially retrofitted electric generating facility that is:

(i) located within 400 miles of the site of the biomass production; and

(ii) designed to use biomass to meet at least 75 percent of its fuel requirements.

(b) The legislature finds that the negative environmental impacts within 400 miles of the facility resulting from transporting and combusting the biomass are offset in that region by the environmental benefits to air, soil, and water of the biomass production.

(c) Among the biomass fuel sources that meet the requirements of paragraph (a), ~~clause~~ clauses (1) and (2) are poplar, aspen, willow, switch grass, sorghum, alfalfa, ~~and~~ cultivated prairie grass and sustainably managed woody biomass.

(d) For the purpose of this section, "sustainably managed woody biomass" means:

(1) brush, trees, and other biomass harvested from within designated utility, railroad, and road rights-of-way;

(2) upland and lowland brush harvested from lands incorporated into brushland habitat management activities of the Minnesota Department of Natural Resources;

(3) upland and lowland brush harvested from lands managed in accordance with Minnesota Department of Natural Resources "Best Management Practices for Managing Brushlands";

(4) logging slash or waste wood that is created by harvest, precommercial timber stand improvement to meet silvicultural objectives, or by fire, disease, or insect control treatments, and that is managed in compliance with the Minnesota Forest Resources Council's "Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers" as modified by the requirement of this subdivision; and

(5) trees or parts of trees that do not meet the utilization standards for pulpwood, posts, bolts, or sawtimber as described in the Minnesota Department of Natural Resources Division of Forestry Timber Sales Manual, 1998, as amended as of May 1, 2005, and the Minnesota Department of Natural Resources Timber Scaling Manual, 1981, as amended as of May 1, 2005, except as provided in paragraph (a), clause (1), and this paragraph, clauses (1) to (3).

Sec. 2. Minnesota Statutes 2004, section 216B.2424, is amended by adding a subdivision to read:

Subd. 1a. [MUNICIPAL WASTE-TO-ENERGY PROJECT.] (a) This subdivision applies only to a biomass project owned or controlled, directly or indirectly, by two municipal utilities as described in subdivision 5a, paragraph (b).

(b) Woody biomass from state-owned land must be harvested in compliance with an adopted management plan and a program of ecologically based third-party certification.

(c) The project must prepare a fuel plan on an annual basis after commercial operation of the project as described in the power contract between the project and the public utility, and must also prepare annually certificates reflecting the types of fuel used in the preceding year by the project, as described in the power contract. The fuel plans and certificates shall also be filed with the

Minnesota Department of Natural Resources and the Minnesota Department of Commerce within 30 days after being provided to the public utility, as provided by the power contract. Any person who believes the fuel plans, as amended, and certificates show that the project does not or will not comply with the fuel requirements of this subdivision may file a petition with the commission seeking such a determination.

(d) The wood procurement process must utilize third-party audit certification systems to verify that applicable best management practices were utilized in the procurement of the sustainably managed biomass. If there is a failure to so verify in any two consecutive years during the original contract term, the farm-grown closed-loop biomass requirements of subdivision 2 must be increased to 50 percent for the remaining contract term period; however, if in two consecutive subsequent years after the increase has been implemented, it is verified that the conditions in this subdivision have been met, then for the remaining original contract term the closed-loop biomass mandate reverts to 25 percent. If there is a subsequent failure to verify in a year after the first failure and implementation of the 50 percent requirement, then the closed-loop percentage shall remain at 50 percent for each remaining year of the contract term.

(e) In the closed-loop plantation, no transgenic plants may be used.

(f) No wood may be harvested from any lands identified by the final or preliminary Minnesota County Biological Survey as having statewide significance as native plant communities, large populations or concentrations of rare species, or critical animal habitat.

(g) A wood procurement plan must be prepared every five years and public meetings must be held and written comments taken on the plan and documentation must be provided on why or why not the public inputs were used.

(h) Guidelines or best management practices for sustainably managed woody biomass must be adopted by:

(1) the Minnesota Department of Natural Resources for managing and maintaining brushland and open land habitat on public and private lands, including, but not limited to, provisions of sections 84.941, 84.942, and 97A.125; and

(2) the Minnesota Forest Resources Council for logging slash, using the most recent available scientific information regarding the removal of woody biomass from forest lands, to sustain the management of forest resources as defined by section 89.001, subdivisions 8 and 9, with particular attention to soil productivity, biological diversity as defined by section 89A.01, subdivision 3, and wildlife habitat.

These guidelines must be completed by July 1, 2007, and the process of developing them must incorporate public notification and comment.

(i) The University of Minnesota Initiative for Renewable Energy and the Environment is encouraged to solicit and fund high-quality research projects to develop and consolidate scientific information regarding the removal of woody biomass from forest and brush lands, with particular attention to the environmental impacts on soil productivity, biological diversity, and sequestration of carbon. The results of this research shall be made available to the public.

(j) The two utilities owning or controlling, directly or indirectly, the biomass project described in subdivision 5a, paragraph (b), agree to fund or obtain funding of up to $150,000 to complete the guidelines or best management practices described in paragraph (h). The expenditures to be funded under this paragraph do not include any of the expenditures to be funded under paragraph (i).

Sec. 3. Minnesota Statutes 2004, section 216B.2424, subdivision 2, is amended to read:

Subd. 2. [INTERIM EXEMPTION.] (a) A biomass project proposing to use, as its primary fuel over the life of the project, short-rotation woody crops, may use as an interim fuel agricultural waste and other biomass which is not farm-grown closed-loop biomass for up to six years after the project's electric generating facility becomes operational; provided, the project developer

demonstrates the project will use the designated short-rotation woody crops as its primary fuel after the interim period and provided the location of the interim fuel production meets the requirements of subdivision 1, paragraph (a), clause (3).

(b) A biomass project proposing to use, as its primary fuel over the life of the project, short-rotation woody crops, may use as an interim fuel agricultural waste and other biomass which is not farm-grown closed-loop biomass for up to three years after the project's electric generating facility becomes operational; provided, the project developer demonstrates the project will use the designated short-rotation woody crops as its primary fuel after the interim period.

(c) A biomass project that uses an interim fuel under the terms of paragraph (b) may, in addition, use an interim fuel under the terms of paragraph (a) for six years less the number of years that an interim fuel was used under paragraph (b).

(d) A project developer proposing to use an exempt interim fuel under paragraphs (a) and (b) must demonstrate to the public utility that the project will have an adequate supply of short-rotation woody crops which meet the requirements of subdivision 1 to fuel the project after the interim period.

(e) If a biomass project using an interim fuel under this subdivision is or becomes owned or controlled, directly or indirectly, by two municipal utilities as described in subdivision 5a, paragraph (b), the project is deemed to comply with the requirement under this subdivision to use as its primary fuel farm-grown closed-loop biomass if farm-grown closed-loop biomass comprises no less than 25 percent of the fuel used over the life of the project. For purposes of this subdivision, "life of the project" means 20 years from the date the project becomes operational or the term of the applicable power purchase agreement between the project owner and the public utility, whichever is longer.

Sec. 4. Minnesota Statutes 2004, section 216B.2424, subdivision 5a, is amended to read:

Subd. 5a. [REDUCTION OF BIOMASS MANDATE.] (a) Notwithstanding subdivision 5, the biomass electric energy mandate ~~shall~~ must be reduced from 125 megawatts to 110 megawatts.

(b) The Public Utilities Commission shall approve a request pending before the ~~Public Utilities~~ commission as of May 15, 2003, for ~~an amendment~~ amendments to and assignment of a ~~contract for power from~~ power purchase agreement with the owner of a facility that uses short-rotation, woody crops as its primary fuel previously approved to satisfy a portion of the biomass mandate if the ~~developer~~ owner of the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts, while maintaining ~~a~~ an average price for energy ~~at or below the current contract price.~~ in nominal dollars measured over the term of the power purchase agreement at or below $104 per megawatt-hour, exclusive of any price adjustments that may take effect subsequent to commission approval of the power purchase agreement, as amended. The commission shall also approve, as necessary, any subsequent assignment or sale of the power purchase agreement or ownership of the project to an entity owned or controlled, directly or indirectly, by two municipal utilities located north of Constitutional Route No. 8, as described in section 161.114, which currently own electric and steam generation facilities using coal as a fuel and which propose to retrofit their existing municipal electrical generating facilities to utilize biomass fuels in order to perform the power purchase agreement.

(c) If the power purchase agreement described in paragraph (b) is assigned to an entity that is, or becomes, owned or controlled, directly or indirectly, by two municipal entities as described in paragraph (b), and the power purchase agreement meets the price requirements of paragraph (b), the commission shall approve any amendments to the power purchase agreement necessary to reflect the changes in project location and ownership and any other amendments made necessary by those changes. The commission shall also specifically find that:

(1) the power purchase agreement complies with and fully satisfies the provisions of this section to the full extent of its 35-megawatt capacity;

(2) all costs incurred by the public utility and all amounts to be paid by the public utility to the

project owner under the terms of the power purchase agreement are fully recoverable pursuant to section 216B.1645;

(3) subject to prudency review by the commission, the public utility may recover from its Minnesota retail customers the Minnesota jurisdictional portion of the amounts that may be incurred and paid by the public utility during the full term of the power purchase agreement; and

(4) if the purchase power agreement meets the requirements of this subdivision, it is reasonable and in the public interest.

(d) The commission shall specifically approve recovery by the public utility of any and all Minnesota jurisdictional costs incurred by the public utility to improve, construct, install, or upgrade transmission, distribution, or other electrical facilities owned by the public utility or other persons in order to permit interconnection of the retrofitted biomass-fueled generating facilities or to obtain transmission service for the energy provided by the facilities to the public utility pursuant to section 216B.1645, and shall disapprove any provision in the power purchase agreement that requires the developer or owner of the project to pay the jurisdictional costs or that permit the public utility to terminate the power purchase agreement as a result of the existence of those costs or the public utility's obligation to pay any or all of those costs.

Sec. 5. Minnesota Statutes 2004, section 216B.2424, subdivision 6, is amended to read:

Subd. 6. [REMAINING MEGAWATT COMPLIANCE PROCESS.] (a) If there remain megawatts of biomass power generating capacity to fulfill the mandate in subdivision 5 after the commission has taken final action on all contracts filed by September 1, 2000, by a public utility, as amended and assigned, this subdivision governs final compliance with the biomass energy mandate in subdivision 5 subject to the requirements of subdivisions 7 and 8.

(b) To the extent not inconsistent with this subdivision, the provisions of subdivisions 2, 3, 4, and 5 apply to proposals subject to this subdivision.

(c) A public utility must submit proposals to the commission to complete the biomass mandate. The commission shall require a public utility subject to this section to issue a request for competitive proposals for projects for electric generation utilizing biomass as defined in paragraph (f) of this subdivision to provide the remaining megawatts of the mandate. The commission shall set an expedited schedule for submission of proposals to the utility, selection by the utility of proposals or projects, negotiation of contracts, and review by the commission of the contracts or projects submitted by the utility to the commission.

(d) Notwithstanding the provisions of subdivisions 1 to 5 but subject to the provisions of subdivisions 7 and 8, a new or existing facility proposed under this subdivision that is fueled either by biomass or by co-firing biomass with nonbiomass may satisfy the mandate in this section. Such a facility need not use biomass that complies with the definition in subdivision 1 if it uses biomass as defined in paragraph (f) of this subdivision. Generating capacity produced by co-firing of biomass that is operational as of April 25, 2000, does not meet the requirements of the mandate, except that additional co-firing capacity added at an existing facility after April 25, 2000, may be used to satisfy this mandate. Only the number of megawatts of capacity at a facility which co-fires biomass that are directly attributable to the biomass and that become operational after April 25, 2000, count toward meeting the biomass mandate in this section.

(e) Nothing in this subdivision precludes a facility proposed and approved under this subdivision from using fuel sources that are not biomass in compliance with subdivision 3.

(f) Notwithstanding the provisions of subdivision 1, for proposals subject to this subdivision, "biomass" includes farm-grown closed-loop biomass; agricultural wastes, including animal, poultry, and plant wastes; and waste wood, including chipped wood, bark, brush, residue wood, and sawdust.

(g) Nothing in this subdivision affects in any way contracts entered into as of April 25, 2000, to satisfy the mandate in subdivision 5.

(h) Nothing in this subdivision requires a public utility to retrofit its own power plants for the purpose of co-firing biomass fuel, nor is a utility prohibited from retrofitting its own power plants for the purpose of co-firing biomass fuel to meet the requirements of this subdivision.

Sec. 6. Minnesota Statutes 2004, section 216B.2424, subdivision 8, is amended to read:

Subd. 8. [AGRICULTURAL BIOMASS REQUIREMENT.] Of the 125 megawatts mandated in subdivision 5, or 110 megawatts mandated in subdivision 5a, at least 75 megawatts of the generating capacity must be generated by facilities that use agricultural biomass as the principal fuel source. For purposes of this subdivision, agricultural biomass includes only farm-grown closed-loop biomass and agricultural waste, including animal, poultry, and plant wastes. For purposes of this subdivision, "principal fuel source" means a fuel source that satisfies at least 75 percent of the fuel requirements of an electric power generating facility. Nothing in this subdivision is intended to expand the fuel source requirements of subdivision 5.

ARTICLE 6

E-FILING

Section 1. [ESTABLISHMENT OF FUND.]

The Department of Commerce's e-filing account is established. The commission shall make a onetime assessment to regulated utilities, no more than $300,000 to cover the actual cost of implementing this section. The funds assessed must be deposited in the account. Any excess funds in the account upon completion must be refunded to the utilities proportionately. Each public utility, municipal utility, electric cooperative association, generation and transmission cooperative electric association, municipal power agency, telephone company, and telecommunications carrier must be assessed in proportion to its respective gross operating revenues for retail sales of gas, electric, or telecommunications service in the state in the last calendar year. Revenue in the account is appropriated to the commission for the costs associated with establishing an e-filing system that allows documents to be filed and retrieved via the Internet. Revenue in the account remains available until expended.

Sec. 2. [COMPLETION DATE.]

The e-filing system must be operational by July 1, 2006.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment.

ARTICLE 7

CIP TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 2004, section 216B.241, subdivision 1b, is amended to read:

Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

(1) a cooperative electric association that provides retail service to its members;

(2) a municipality that provides electric service to retail customers; and

(3) a municipality with gross operating revenues in excess of $5,000,000 from sales of natural gas to retail customers.

(b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:

(1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating

revenues from electric and gas service provided in the state to large electric customer facilities; and

(2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.

(c) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b).

(d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

(e) Load-management activities that do not reduce energy use but that increase the efficiency of the electric system may be used to meet ~~the following percentage~~ 50 percent of the conservation investment and spending requirements of this subdivision~~:~~

~~(1) 2002 - 90 percent;~~

~~(2) 2003 - 80 percent;~~

~~(3) 2004 - 65 percent; and~~

~~(4) 2005 and thereafter - 50 percent~~.

(f) A generation and transmission cooperative electric association that provides energy services to cooperative electric associations that provide electric service at retail to consumers may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.

(g) At least every ~~two~~ four years, on a schedule determined by the commissioner, each municipality or cooperative shall file an overview of its conservation improvement plan with the commissioner. With this overview, the municipality or cooperative shall also provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments for the previous period. The evaluation must briefly describe each conservation program and must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility or association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the utility's or association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department. The commissioner shall review each evaluation and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program evaluation. The overview and evaluation filed by a municipality with less than 60,000,000 kilowatt hours in annual retail sales of electric service may consist of a letter from the governing board of the municipal utility to the department providing the amount of annual conservation spending required of that municipality and certifying that the required amount has been spent on conservation programs pursuant to this subdivision.

(h) The commissioner shall also review each evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income at or below 50 percent of the state median income.

(i) As part of its spending for conservation improvement, a municipality or association may contribute to the energy and conservation account. A municipality or association may propose to the commissioner to designate that all or a portion of funds contributed to the account be used for research and development projects that can best be implemented on a statewide basis. Any amount contributed must be remitted to the commissioner by February 1 of each year.

(j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires July 1, 2007.

Sec. 2. Minnesota Statutes 2004, section 216B.241, subdivision 2, is amended to read:

Subd. 2. [PROGRAMS.] (a) The commissioner may require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover no more than a ~~two-year~~ four-year period. Public utilities shall file conservation improvement plans by June 1, on a schedule determined by order of the commissioner, but at least every four years. Plans received by a public utility by June 1 must be approved or approved as modified by the commissioner by December 1 of that same year. The commissioner shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The commissioner's order must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, material, or project constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable.

(b) The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department.

(c) Each public utility subject to subdivision 1a may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

(d) A public utility may not spend for or invest in energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization.

(e) The commissioner may, by order, establish a list of programs that may be offered as energy conservation improvements by a public utility, municipal utility, cooperative electric association, or other entity providing conservation services pursuant to this section. The list of programs may include rebates for high-efficiency appliances, rebates or subsidies for high-efficiency lamps, small business energy audits, and building recommissioning. The commissioner may, by order, change this list to add or subtract programs as the commissioner determines is necessary to promote efficient and effective conservation programs.

(f) The commissioner shall ensure that a portion of the money spent on residential conservation

improvement programs is devoted to programs that directly address the needs of renters and low-income persons~~, in proportion to the amount the utility has historically spent on such programs based on the most recent three-year average relative to the utility's total conservation spending under this section,~~. The utility shall make a good faith effort to ensure that its conservation spending for the needs of renters and low-income persons increases and decreases in approximately the same proportion as the total increase or decrease in the utility's overall conservation spending, unless an insufficient number of appropriate programs are available.

(g) A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33 may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

(h) The commissioner may order a public utility to include, with the filing of the utility's proposed conservation improvement plan under paragraph (a), the results of an independent audit of the utility's conservation improvement programs and expenditures performed by the department or an auditor with experience in the provision of energy conservation and energy efficiency services approved by the commissioner and chosen by the utility. The audit must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility that is the result of the spending and investments. The audit must evaluate the cost-effectiveness of the utility's conservation programs.

(i) Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program audit and evaluation.

ARTICLE 8

POWER QUALITY ZONES

Section 1. [216B.2426] [OPPORTUNITIES FOR DISTRIBUTED GENERATION.]

The commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), are considered in any proceeding under section 216B.2422, 216B.2425, or 216B.243.

Sec. 2. [216B.82] [LOCAL POWER QUALITY ZONES.]

(a) Upon joint petition of a public utility as defined in section 216B.02, subdivision 4, and any customer located within the utility's service territory, the commission may establish a zone within that utility's service territory where the utility will install additional, redundant or upgraded components of the electric distribution infrastructure that are designed to decrease the risk of power outages, provided the utility and all of its customers located within the proposed zone have approved the installation of the components and the financial recovery plan prior to the creation of the zone.

(b) The commission shall authorize the utility to collect all costs of the installation of any components under this section, including initial investment, operation and maintenance costs and taxes from all customers within the zone, through tariffs and surcharges for service in a zone that appropriately reflect the cost of service to those customers, provided the customers agree to pay all costs for a predetermined period, including costs of component removal, if appropriate.

(c) Nothing in this section limits the ability of the utility and any customer to enter into customer-specific agreements pursuant to applicable statutory, rule, or tariff provisions.

ARTICLE 9

BIOGAS INCENTIVE PAYMENTS

Section 1. Minnesota Statutes 2004, section 216C.41, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Qualified hydroelectric facility" means a hydroelectric generating facility in this state that:

(1) is located at the site of a dam, if the dam was in existence as of March 31, 1994; and

(2) begins generating electricity after July 1, 1994, or generates electricity after substantial refurbishing of a facility that begins after July 1, 2001.

(c) "Qualified wind energy conversion facility" means a wind energy conversion system in this state that:

(1) produces two megawatts or less of electricity as measured by nameplate rating and begins generating electricity after December 31, 1996, and before July 1, 1999;

(2) begins generating electricity after June 30, 1999, produces two megawatts or less of electricity as measured by nameplate rating, and is:

(i) owned by a resident of Minnesota or an entity that is organized under the laws of this state, is not prohibited from owning agricultural land under section 500.24, and owns the land where the facility is sited;

(ii) owned by a Minnesota small business as defined in section 645.445;

(iii) owned by a Minnesota nonprofit organization;

(iv) owned by a tribal council if the facility is located within the boundaries of the reservation;

(v) owned by a Minnesota municipal utility or a Minnesota cooperative electric association; or

(vi) owned by a Minnesota political subdivision or local government, including, but not limited to, a county, statutory or home rule charter city, town, school district, or any other local or regional governmental organization such as a board, commission, or association; or

(3) begins generating electricity after June 30, 1999, produces seven megawatts or less of electricity as measured by nameplate rating, and:

(i) is owned by a cooperative organized under chapter 308A other than a Minnesota cooperative electric association; and

(ii) all shares and membership in the cooperative are held by an entity that is not prohibited from owning agricultural land under section 500.24.

(d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system that:

(1) is located at the site of an agricultural operation; and

(2) is owned by an entity that is not prohibited from owning agricultural land under section 500.24 and that owns or rents the land where the facility is located~~; and~~

~~(3) begins generating electricity after July 1, 2001~~.

(e) "Anaerobic digester system" means a system of components that processes animal waste based on the absence of oxygen and produces gas used to generate electricity.

ARTICLE 10

GAS INFRASTRUCTURE COST

Section 1. [216B.1635] [RECOVERY OF ELIGIBLE INFRASTRUCTURE REPLACEMENT COSTS BY GAS UTILITIES.]

Subdivision 1. [DEFINITIONS.] (a) "Gas utility" means a public utility as defined in section 216B.02, subdivision 4, that furnishes natural gas service to retail customers.

(b) "Gas utility infrastructure costs" or "GUIC" means gas utility projects that:

(1) do not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) are in service but were not included in the gas utility's rate base in its most recent general rate case; and

(3) replace or modify existing infrastructure if the replacement or modification does not constitute a betterment, unless the betterment is required by a political subdivision, as evidenced by specific documentation from the government entity requiring the replacement or modification of infrastructure.

(c) "Gas utility projects" means relocation and replacement of natural gas facilities located in the public right-of-way required by the construction or improvement of a highway, road, street, public building, or other public work by or on behalf of the United States, the State of Minnesota, or a political subdivision.

Subd. 2. [FILING.] (a) The commission may approve a gas utility's petition for a rate schedule to recover GUIC under this section. A gas utility may petition the commission to recover a rate of return, income taxes on the rate of return, incremental property taxes, plus incremental depreciation expense associated with GUIC.

(b) The filing is subject to the following:

(1) a gas utility may submit a filing under this section no more than once per year;

(2) a gas utility must file sufficient information to satisfy the commission regarding the proposed GUIC or be subject to denial by the commission. The information includes, but is not limited to:

(i) the government entity ordering the gas utility project and the purpose for which the project is undertaken;

(ii) the location, description, and costs associated with the project;

(iii) a description of the costs, and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;

(iv) the proposed rate design and an explanation of why the proposed rate design is in the public interest;

(v) the magnitude and timing of any known future gas utility projects that the utility may seek to recover under this section;

(vi) the magnitude of GUIC in relation to the gas utility's base revenue as approved by the commission in the gas utility's most recent general rate case, exclusive of gas purchase costs and transportation charges;

(vii) the magnitude of GUIC in relation to the gas utility's capital expenditures since its most recent general rate case;

(viii) the amount of time since the utility last filed a general rate case and the utility's reasons for seeking recovery outside of a general rate case; and

(ix) documentation supporting the calculation of the GUIC.

Subd. 3. [COMMISSION AUTHORITY.] The commission may issue orders and adopt rules necessary to implement and administer this section.

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

Sec. 2. [REPORT TO LEGISLATURE.]

The Department of Commerce shall review the operation and impact of the GUIC recovery mechanism established under Minnesota Statutes, section 216B.1635, on ratepayers and the utility and submit a report of its findings and recommendations to the legislature four years after the effective date of this section.

Sec. 3. [SUNSET.]

Sections 1 and 2 shall expire on June 30, 2015.

ARTICLE 11

EMINENT DOMAIN LANDOWNER COMPENSATION

Section. 1. [LANDOWNER PAYMENTS WORKING GROUP.]

Subdivision 1. [MEMBERSHIP.] By June 15, 2005, the Legislative Electric Energy Task Force shall convene a landowner payments working group consisting of up to 12 members, including representatives from each of the following groups: transmission-owning investor-owned utilities, electric cooperatives, municipal power agencies, Farm Bureau, Farmers Union, county commissioners, real estate appraisers and others with an interest and expertise in landowner rights and the market value of rural property.

Subd. 2. [APPOINTMENT.] The chairs of the Legislative Electric Energy Task Force and the chairs of the senate and house committees with primary jurisdiction over energy policy shall jointly appoint the working group members.

Subd. 3. [CHARGE.] (a) The landowner payments working group shall research alternative methods of remunerating landowners on whose land high voltage transmission lines have been constructed.

(b) In developing its recommendations, the working group shall:

(1) examine different methods of landowner payments that operate in other states and countries;

(2) consider innovative alternatives to lump-sum payments that extend payments over the life of the transmission line and that run with the land if the land is conveyed to another owner;

(3) consider alternative ways of structuring payments that are equitable to landowners and utilities.

Subd. 4. [EXPENSES.] Members of the working group shall be reimbursed for expenses as provided in Minnesota Statutes, section 15.059, subdivision 6. Expenses of the landowner payments working group shall not exceed $10,000 without the approval of the chairs of the Legislative Electric Energy Task Force.

Subd. 5. [REPORT.] The landowner payments working group shall present its findings and recommendations, including legislative recommendations and model legislation, if any, in a report to the Legislative Electric Energy Task Force by January 15, 2006.

ARTICLE 12

TECHNICAL CORRECTION

Section 1. Minnesota Statutes 2004, section 216B.16, subdivision 6d, is amended to read:

Subd. 6d. [WIND ENERGY; PROPERTY TAX.] An owner of a wind energy conversion facility which is required to pay property taxes under section 272.02, subdivision 22, or production taxes under section 272.029, and any related or successor provisions, or a public utility regulated

by the Public Utilities Commission which purchases the wind generated electricity may petition the commission to include in any power purchase agreement between the owner of the facility and the public utility the amount of property taxes and production taxes paid by the owner of the facility. The Public Utilities Commission shall require the public utility to amend the power purchase agreement to include the property taxes and production taxes paid by the owner of the facility in the price paid by the utility for wind generated electricity if the commission finds:

(1) the owner of the facility has paid the property taxes or production taxes required by this subdivision;

(2) the power purchase agreement between the public utility and the owner does not already require the utility to pay the amount of property taxes or production taxes the owner has paid under this subdivision, or, in the case of a power purchase agreement entered into prior to 1997, the amount of property or production taxes paid by the owner in any year of the power purchase agreement exceeds the amount of such property or production taxes included in the price paid by the utility to the owner, as reflected in the owner's bid documents; and

(3) the commission has approved a rate schedule containing provisions for the automatic adjustment of charges for utility service in direct relation to the charges ordered by the commission under section 272.02, subdivision 22, or section 272.029.

ARTICLE 13

HYDROGEN

Section 1. [216B.811] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of sections 216B.811 to 216B.815, the terms defined in this section have the meanings given them.

Subd. 2. [FUEL CELL.] "Fuel cell" means an electrochemical device that produces useful electricity, heat, and water vapor, and operates as long as it is provided fuel.

Subd. 3. [HYDROGEN.] "Hydrogen" means hydrogen produced using native energy sources.

Subd. 4. [RELATED TECHNOLOGIES.] "Related technologies" means balance of plant components necessary to make hydrogen and fuel cell systems function; turbines, reciprocating, and other combustion engines capable of operating on hydrogen; and electrolyzers, reformers, and other equipment and processes necessary to produce, purify, store, distribute, and use hydrogen for energy.

Sec. 2. [216B.812] [FOSTERING THE TRANSITION TOWARD ENERGY SECURITY.]

Subdivision 1. [EARLY PURCHASE AND DEPLOYMENT OF HYDROGEN, FUEL CELLS, AND RELATED TECHNOLOGIES BY THE STATE.] The Department of Administration shall identify opportunities for demonstrating the use of hydrogen fuel cells within state-owned facilities, vehicle fleets, and operations.

The department shall purchase and demonstrate hydrogen, fuel cells, and related technologies in ways that strategically contribute to realizing Minnesota's hydrogen economy goal as set forth in section 216B.013, and which contribute to the following nonexclusive list of objectives:

(1) provide needed performance data to the marketplace;

(2) identify code and regulatory issues to be resolved;

(3) advance or validate a critical area of research;

(4) foster economic development and job creation in the state;

(5) raise public awareness of hydrogen, fuel cells, and related technologies; or

(6) reduce emissions of carbon dioxide and other pollutants.

Subd. 2. [SUPPORT FOR STRATEGIC DEMONSTRATION PROJECTS THAT ACCELERATE THE COMMERCIALIZATION OF HYDROGEN, FUEL CELLS, AND RELATED TECHNOLOGIES.] (a) In consultation with appropriate representatives from state agencies, local governments, universities, businesses, and other interested parties, the Department of Commerce shall report back to the legislature by November 1, 2005, and every two years thereafter, with a slate of proposed pilot projects that contribute to realizing Minnesota's hydrogen economy goal as set forth in section 216B.013. The Department of Commerce must consider the following nonexclusive list of priorities in developing the proposed slate of pilot projects:

(1) demonstrate "bridge" technologies such as hybrid-electric, off-road, and fleet vehicles running on hydrogen or fuels blended with hydrogen;

(2) develop cost-competitive, on-site hydrogen production technologies;

(3) demonstrate nonvehicle applications for hydrogen;

(4) improve the cost and efficiency of hydrogen from renewable energy sources; and

(5) improve the cost and efficiency of hydrogen production using direct solar energy without electricity generation as an intermediate step.

(b) For all demonstrations, individual system components of the technology must meet commercial performance standards and systems modeling must be completed to predict commercial performance, risk, and synergies. In addition, the proposed pilots should meet as many of the following criteria as possible:

(1) advance energy security;

(2) capitalize on the state's native resources;

(3) result in economically competitive infrastructure being put in place;

(4) be located where it will link well with existing and related projects and be accessible to the public, now or in the future;

(5) demonstrate multiple, integrated aspects of hydrogen infrastructure;

(6) include an explicit public education and awareness component;

(7) be scalable to respond to changing circumstances and market demands;

(8) draw on firms and expertise within the state where possible;

(9) include an assessment of its economic, environmental, and social impact; and

(10) serve other needs beyond hydrogen development.

Subd. 3. [ESTABLISHING INITIAL, MULTIFUEL TRANSITION INFRASTRUCTURE FOR HYDROGEN VEHICLES.] The commissioner of commerce may accept federal funds, expend funds, and participate in projects to design, site, and construct multifuel hydrogen fueling stations that eventually link urban centers along key trade corridors across the jurisdictions of Manitoba, the Dakotas, Minnesota, Iowa, and Wisconsin.

These energy stations must serve the priorities listed in subdivision 2 and, as transition infrastructure, should accommodate a wide variety of vehicle technologies and fueling platforms, including hybrid, flexible-fuel, and fuel cell vehicles. They may offer, but not be limited to, gasoline, diesel, ethanol (E-85), biodiesel, and hydrogen, and may simultaneously test the integration of on-site combined heat and power technologies with the existing energy infrastructure.

The hydrogen portion of the stations may initially serve local, dedicated on or off-road vehicles, but should eventually support long-haul transport.

Sec. 3. [216B.815] [AUTHORIZE AND ENCOURAGE THE STATE'S PUBLIC RESEARCH INSTITUTIONS TO COORDINATE AND LEVERAGE THEIR STRENGTHS THROUGH A REGIONAL ENERGY RESEARCH AND EDUCATION PARTNERSHIP.]

The state's public research and higher education institutions should work with one another and with similar institutions in the region to establish Minnesota and the Upper Midwest as a center of research, education, outreach, and technology transfer for the production of renewable energy and products, including hydrogen, fuel cells, and related technologies. The partnership should be designed to create a critical mass of research and education capability that can compete effectively for federal and private investment in these areas.

The partnership must include an advisory committee comprised of government, industry, academic, and nonprofit representatives to help focus its research and education efforts on the most critical issues. Initiatives undertaken by the partnership may include:

(1) collaborative and interdisciplinary research, demonstration projects, and commercialization of market-ready technologies;

(2) creation of undergraduate and graduate course offerings and eventually degreed and vocational programs with reciprocity;

(3) establishment of fellows programs at the region's institutes of higher learning that provide financial incentives for relevant study, research, and exchange; and

(4) development and field-testing of relevant curricula, teacher kits for all educational levels, and widespread teacher training, in collaboration with state energy offices, teachers, nonprofits, businesses, the United States Department of Energy, and other interested parties.

Sec. 4. [HYDROGEN REFUELING STATIONS; GRANTS.]

The commissioner of commerce shall make assessments under Minnesota Statutes, section 216C.052, of $300,000 in fiscal year 2006 and $300,000 in fiscal year 2007 for the purpose of matching federal and private investments in three multifuel hydrogen refueling stations in Moorhead, Alexandria, and the Twin Cities respectively. The assessments and grants are contingent upon securing the balance of the total project costs from nonstate sources.

Sec. 5. [FUEL CELL CURRICULUM DEVELOPMENT PILOT.]

The Board of Trustees of the Minnesota State Colleges and Universities is encouraged to work with the Upper Midwest Hydrogen Initiative and other interested parties to develop and implement hydrogen and fuel cell curricula and training programs that can be incorporated into existing relevant courses and disciplines affected by these technologies. These disciplines include, but are not limited to, chemical, electrical, and mechanical engineering, including lab technicians; fuel cell production, installation, and maintenance; fuel cell and internal combustion vehicles, including hybrids, running on hydrogen or biofuels; and the construction, installation, and maintenance of facilities that will produce, use, or serve hydrogen. The curricula should also be useful to secondary educational institutions and should include, but not be limited to, the production, purification, distribution, and use of hydrogen in portable, stationary, and mobile applications such as fuel cells, turbines, and reciprocating engines.

ARTICLE 14

CIP GEOTHERMAL PROGRAMS

Section 1. Minnesota Statutes 2004, section 216B.241, subdivision 1b, is amended to read:

Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

(1) a cooperative electric association that provides retail service to its members;

(2) a municipality that provides electric service to retail customers; and

(3) a municipality with gross operating revenues in excess of $5,000,000 from sales of natural gas to retail customers.

(b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:

(1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and

(2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.

(c) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b). The spending must include programs for rebates for geothermal heating and cooling systems if programs are found to be cost effective.

(d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

(e) Load-management activities that do not reduce energy use but that increase the efficiency of the electric system may be used to meet the following percentage of the conservation investment and spending requirements of this subdivision:

(1) 2002 - 90 percent;

(2) 2003 - 80 percent;

(3) 2004 - 65 percent; and

(4) 2005 and thereafter - 50 percent.

(f) A generation and transmission cooperative electric association that provides energy services to cooperative electric associations that provide electric service at retail to consumers may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.

(g) Every two years, on a schedule determined by the commissioner, each municipality or cooperative shall file an overview of its conservation improvement plan with the commissioner. With this overview, the municipality or cooperative shall also provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments for the previous period. The evaluation must briefly describe each conservation program, including the geothermal heating and cooling system rebate program, and must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility or association that is the result of the spending and investments. The evaluation must analyze the

cost-effectiveness of the utility's or association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department. The commissioner shall review each evaluation and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program evaluation. The overview and evaluation filed by a municipality with less than 60,000,000 kilowatt hours in annual retail sales of electric service may consist of a letter from the governing board of the municipal utility to the department providing the amount of annual conservation spending required of that municipality and certifying that the required amount has been spent on conservation programs pursuant to this subdivision.

(h) The commissioner shall also review each evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income at or below 50 percent of the state median income.

(i) As part of its spending for conservation improvement, a municipality or association may contribute to the energy and conservation account. A municipality or association may propose to the commissioner to designate that all or a portion of funds contributed to the account be used for research and development projects that can best be implemented on a statewide basis. Any amount contributed must be remitted to the commissioner by February 1 of each year.

(j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires July 1, 2007.

Sec. 2. Minnesota Statutes 2004, section 216B.241, subdivision 2, is amended to read:

Subd. 2. [PROGRAMS.] (a) The commissioner may require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover a two-year period. Public utilities shall file conservation improvement plans by June 1, on a schedule determined by order of the commissioner. Plans received by a public utility by June 1 must be approved or approved as modified by the commissioner by December 1 of that same year. The commissioner shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The commissioner shall require public utilities to file programs offering rebates for the installation of geothermal heating and cooling systems. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The commissioner's order must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, material, or project constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable.

(b) The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department.

(c) Each public utility subject to subdivision 1a may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

(d) A public utility may not spend for or invest in energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an

exemption pursuant to subdivision 1a, paragraph (b). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization.

(e) The commissioner may, by order, establish a list of programs that may be offered as energy conservation improvements by a public utility, municipal utility, cooperative electric association, or other entity providing conservation services pursuant to this section. The list of programs may include rebates for high-efficiency appliances, rebates or subsidies for high-efficiency lamps, small business energy audits, and building recommissioning. The commissioner may, by order, change this list to add or subtract programs as the commissioner determines is necessary to promote efficient and effective conservation programs.

(f) The commissioner shall ensure that a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons, in proportion to the amount the utility has historically spent on such programs based on the most recent three-year average relative to the utility's total conservation spending under this section, unless an insufficient number of appropriate programs are available.

(g) A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33 may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

(h) The commissioner may order a public utility to include, with the filing of the utility's proposed conservation improvement plan under paragraph (a), the results of an independent audit of the utility's conservation improvement programs and expenditures performed by the department or an auditor with experience in the provision of energy conservation and energy efficiency services approved by the commissioner and chosen by the utility. The audit must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility that is the result of the spending and investments. The audit must evaluate the cost-effectiveness of the utility's conservation programs.

(i) Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program audit and evaluation.

ARTICLE 15

SOY-DIESEL

Section 1. [APPROPRIATION; RENEWABLE DEVELOPMENT GRANT.]

Notwithstanding any contrary provision of Minnesota Statutes, section 116C.779, $150,000 is appropriated in fiscal year 2006 to the Agricultural Utilization Research Institute from the renewable development account established under Minnesota Statutes, section 116C.779. The institute shall disburse the money over three fiscal years as grants to an applicant meeting the requirements of Minnesota Statutes, section 216C.41, subdivision 1, paragraph (c), clause (2), item (i), for a project that uses a soy-diesel generator to provide backup power for a wind energy conversion system of one megawatt or less of nameplate capacity. The institute shall disburse up to $50,000 of the grant each of the next three fiscal years beginning July 1, 2005.

For the purpose of this section, "soy-diesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils that meets American Society for Testing and Materials Specification D6751-02 for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels. This section only applies if the entity receives qualifying applications."

Delete the title and insert:

"A bill for an act relating to energy; providing for expedited cost recovery for certain transmission investments; authorizing and regulating transmission companies; permitting the transfer of transmission assets and operation to transmission companies; providing for expedited regulatory approval of transmission projects related to renewable generation; providing new criteria to analyze the need for transmission projects; establishing the framework for a wind energy tariff related to community development; requiring a wind integration study; transferring generation plant siting and transmission line routing authority from the Minnesota Environmental Quality Board to the Public Utilities Commission; providing for technical corrections to the energy assistance program; providing for a sustainably managed woody biomass generation project to satisfy the biomass mandate; providing for an electronic mail filing system at the Public Utilities Commission and Department of Commerce; making changes to the conservation investment program recommended by the legislative auditor; authorizing the creation of energy quality zones; regulating eligibility of biogas projects for the renewable energy production incentive; providing for the recovery of certain infrastructure investments by gas utilities; requiring a study of compensation of landowners for transmission easements; providing for a geothermal rebate program under the conservation investment program; promoting the use of soy-diesel; providing for the adjustment of power purchase agreements to account for production tax payments; promoting the use of hydrogen as an energy source; amending Minnesota Statutes 2004, sections 13.681, by adding a subdivision; 116C.52, subdivisions 2, 4; 116C.53, subdivision 2; 116C.57, subdivisions 1, 2c, by adding a subdivision; 116C.575, subdivision 5; 116C.577; 116C.58; 116C.61, subdivision 3; 116C.69, subdivisions 2, 2a; 119A.15, subdivision 5a; 216B.02, by adding a subdivision; 216B.16, subdivision 6d, by adding subdivisions; 216B.1645, subdivision 1; 216B.241, subdivisions 1b, 2; 216B.2421, subdivision 2; 216B.2424, subdivisions 1, 2, 5a, 6, 8, by adding a subdivision; 216B.2425, subdivisions 2, 7; 216B.243, subdivisions 3, 4, 5, 6, 7, 8; 216B.50, subdivision 1; 216B.62, subdivision 5, by adding a subdivision; 216B.79; 216C.052; 216C.09; 216C.41, subdivision 1; 462A.05, subdivisions 21, 23; proposing coding for new law in Minnesota Statutes, chapters 216B; 216C."

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

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

S.F. No. 1689: A bill for an act relating to public safety; criminalizing certain acts related to the unlawful trafficking in persons; providing for the forfeiture of certain property of the offender in these cases; specifically including conduct involving trafficking in the promoting of prostitution crime; modifying the distribution formula for prostitution and sex trafficking-related forfeiture proceeds; amending Minnesota Statutes 2004, sections 609.321, subdivisions 1, 7, by adding subdivisions; 609.325, by adding a subdivision; 609.531, subdivision 1; 609.5315, subdivision 1, by adding a subdivision; 628.26; proposing coding for new law in Minnesota Statutes, chapter 609.

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

Page 1, after line 15, insert:

"ARTICLE 1

CRIMINAL AND CIVIL PROVISIONS"

Page 3, line 24, after the period, insert "This remedy is in addition to potential criminal liability."

Page 10, after line 22, insert:

"ARTICLE 2

DEPARTMENT OF PUBLIC SAFETY:
ASSESSMENT OF TRAFFICKING IN MINNESOTA;
PLANS TO ADDRESS AND PREVENT TRAFFICKING;
ASSESSMENT OF SERVICES FOR TRAFFICKING VICTIMS

Section 1. [299A.78] [STATEWIDE TRAFFICKING ASSESSMENT.]

Subdivision 1. [DEFINITIONS.] For purposes of sections 299A.78 to 299A.7955, the following definitions apply:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Nongovernmental organizations" means nonprofit, nongovernmental organizations that provide legal, social, or other community services.

(c) "Trafficking" includes "labor trafficking" as defined in section 609.281, subdivision 5, and "sex trafficking" as defined in section 609.321, subdivision 7a.

(d) "Trafficking victim" includes "labor trafficking victim" as defined in section 609.281, subdivision 6, and "sex trafficking victim" as defined in section 609.321, subdivision 7b.

(e) "Blackmail" has the meaning given it in section 609.281, subdivision 2.

(f) "Debt bondage" has the meaning given it in section 609.281, subdivision 3.

(g) "Forced labor or services" has the meaning given it in section 609.281, subdivision 4.

Subd. 2. [GENERAL DUTIES.] The commissioner of public safety shall:

(1) in cooperation with local authorities, collect, share, and compile trafficking data among government agencies to assess the nature and extent of trafficking in Minnesota;

(2) analyze collected data to develop a plan to address and prevent trafficking; and

(3) use its analyses to establish policies to enable state government to work with nongovernmental organizations to provide assistance to trafficking victims.

Subd. 3. [OUTSIDE SERVICES.] As provided for in section 15.061, the commissioner of public safety may contract with professional or technical services in connection with the duties to be performed under sections 299A.785 to 299A.7955. The commissioner may also contract with other outside organizations to assist with the duties to be performed under sections 299A.785 to 299A.7955.

Sec. 2. [299A.785] [TRAFFICKING STUDY.]

Subdivision 1. [INFORMATION TO BE COLLECTED.] The commissioner shall elicit the cooperation and assistance of government agencies and nongovernmental organizations as appropriate to assist in the collection of trafficking data. The commissioner shall direct the appropriate authorities in each agency and organization to make best efforts to collect information relevant to tracking progress on trafficking. The information to be collected may include, but is not limited to:

(1) the numbers of arrests, prosecutions, and successful convictions of traffickers and those committing trafficking related crimes, including, but not limited to, the following offenses: sections 609.282, labor trafficking; 609.283, document fraud; 609.322, solicitation of prostitution; 609.324, other prostitution crimes; 609.33, disorderly house; 609.352, solicitation of a child; and 617.245 and 617.246, use of minors in sexual performance;

(2) statistics on the number of trafficking victims, including demographics, method of recruitment, and method of discovery;

(3) trafficking routes and patterns, states or country of origin, transit states or countries;

(4) method of transportation, motor vehicles, aircraft, watercraft, or by foot if any transportation took place; and

(5) social factors that contribute to and foster trafficking, especially trafficking of women and children.

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, compile, and publish annually statistical data on the extent and nature of trafficking in Minnesota. 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. 3. [299A.7855] [TRAFFICKING ANALYSIS AND INITIATIVES.]

Subdivision 1. [DATA ANALYSIS.] The commissioner shall analyze the data collected in section 299A.785 to develop and carry out a plan to address current trafficking and prevent future trafficking in Minnesota. The commissioner may evaluate various approaches used by other state and local governments to address trafficking. The plan shall include, but not be limited to, the following initiatives:

(1) training agencies, organizations, and officials involved in law enforcement, prosecution, and social services;

(2) increasing public awareness of trafficking; and

(3) establishing procedures to enable the state government to work with nongovernmental organizations to prevent trafficking.

Subd. 2. [TRAINING INITIATIVES.] (a) The commissioner shall provide and strengthen training for law enforcement, prosecutors, social services, and other relevant officials in addressing trafficking. The training shall include:

(1) methods used in identifying trafficking victims, including preliminary interview techniques and appropriate interrogation methods;

(2) methods for prosecuting traffickers;

(3) methods for protecting the rights of trafficking victims, taking into account the need to consider human rights and special needs of women and children trafficking victims; and

(4) methods for promoting the safety of trafficking victims.

(b) Once created and as updated, the commissioner shall provide training plans and materials associated with paragraph (a) to the Board of Peace Officer Standards and Training.

Subd. 3. [AWARENESS INITIATIVES.] (a) The commissioner shall, in cooperation with appropriate nongovernmental organizations, establish public awareness programs designed to educate persons at risk of trafficking and their families of the risks of victimization. The programs shall include, but not be limited to, information on the following subjects:

(1) the risks of becoming a trafficking victim, including:

(i) common recruitment techniques, such as use of debt bondage, blackmail, forced labor and services, prostitution, and other coercive tactics; and

(ii) the risks of assault, criminal sexual conduct, exposure to sexually transmitted diseases, and psychological harm;

(2) crime victims' rights in Minnesota; and

(3) methods for reporting recruitment activities involved in trafficking.

(b) The commissioner shall, in cooperation with appropriate agencies and nongovernmental organizations, disseminate public awareness materials to educate the public on the extent of trafficking and to discourage the demand that fosters and leads to trafficking, in particular trafficking of women and children. These materials may include information on:

(1) the impact of trafficking on victims;

(2) the aggregate impact of trafficking worldwide and domestically; and

(3) the criminal consequences of trafficking. The materials may be disseminated by way of the following media: pamphlets, brochures, posters, advertisements in mass media, or any other appropriate methods.

(c) Once created and as updated, the commissioner shall provide samples of the materials disseminated under paragraph (b) to the Department of Public Safety's office of justice program.

Subd. 4. [ANNUAL EVALUATION.] The commissioner shall evaluate its training and awareness initiatives annually to ensure their effectiveness.

Sec. 4. [299A.79] [TRAFFICKING VICTIM ASSISTANCE.]

(a) The commissioner shall establish policies to enable state government to work with nongovernmental organizations to provide assistance to trafficking victims.

(b) The commissioner may review the existing services and facilities to meet trafficking victims' needs and recommend a plan that would coordinate such services, including, but not limited to:

(1) medical and mental health services;

(2) housing;

(3) education and job training;

(4) English as a second language;

(5) interpreting services;

(6) legal and immigration services; and

(7) victim compensation.

Sec. 5. [299A.795] [TRAFFICKING INTERAGENCY ADVISORY COMMITTEE.]

Subdivision 1. [CREATION AND DUTIES.] By August 1, 2005, the commissioner shall appoint an advisory committee on trafficking to advise the commissioner on carrying out the commissioner's duties and responsibilities set forth in sections 299A.78 to 299A.79. The trafficking advisory committee shall also serve as a liaison between the commissioner and agencies and nongovernmental organizations that provide services to trafficking victims. The members shall be compensated at a per diem rate to be set by the commissioner, plus receive expense reimbursement as specified in section 15.059.

Subd. 2. [MEMBERSHIP.] The trafficking advisory committee consists of some or all of the following individuals or their designees, who are knowledgeable in trafficking, crime victims' rights, or violence prevention:

(1) a representative of the Minnesota Police Chiefs Association;

(2) a representative of the Bureau of Criminal Apprehension;

(3) a representative of the Minnesota Sheriffs Association;

(4) a peace officer who works and resides in the metropolitan area, composed of Hennepin, Ramsey, Anoka, Dakota, Scott, Washington, and Carver Counties;

(5) a peace officer who works and resides in the nonmetropolitan area;

(6) a county attorney who works in Hennepin County;

(7) a county attorney who works in Ramsey County;

(8) a representative from the Attorney General's Office;

(9) a representative of the Department of Public Safety's office of justice program;

(10) a representative of the federal Homeland Security Office;

(11) a representative of the Department of Health;

(12) a representative of the Department of Human Services;

(13) a representative from a nongovernmental organization that specializes in trafficking;

(14) representatives from nongovernmental organizations that represent immigrant communities likely to be affected by trafficking;

(15) a representative from a nongovernmental organization that provides child services and runaway services;

(16) a representative of the medical and mental health community;

(17) a representative of the academic community; and

(18) a representative from a nongovernmental organization that provides statewide leadership in ending domestic violence and sexual assault.

The commissioner may appoint more than one individual to provide the representation specified in clauses (1) to (18) to serve on the committee.

Subd. 3. [OFFICERS; MEETINGS.] (a) The committee shall elect a chair and vice-chair from among its members, and may elect other officers as necessary. The committee shall meet at least quarterly, or upon the call of the chair. The committee shall meet as frequently as necessary to accomplish the tasks identified in this section.

(b) The committee shall seek out and enlist the cooperation and assistance of nongovernmental organizations and academic researchers, especially those specializing in trafficking, representing diverse communities disproportionately affected by trafficking, or focusing on child services and runaway services.

Subd. 4. [DISSOLUTION.] Notwithstanding section 15.059, the committee may dissolve once the extent of trafficking in Minnesota has been assessed, and the initiatives, programs, and policies in sections 299A.78 to 299A.795 have been developed and implemented to the satisfaction of the commissioner. Upon dissolution of the committee, all duties and responsibilities set forth in sections 299A.78 to 299A.795 may continue at the discretion of the commissioner.

Sec. 6. [299A.7955] [TRAFFICKING COORDINATOR.]

(a) By August 15, 2005, the commissioner of public safety shall appoint a statewide trafficking coordinator. In choosing a coordinator, the commissioner may consult the trafficking advisory committee and consider any of the committee's recommendations. The coordinator is a position in the unclassified service and serves at the pleasure of the commissioner.

(b) The coordinator shall assist the commissioner in fulfilling the duties and responsibilities set forth in sections 299A.78 to 299A.795. In addition, the coordinator may be responsible for the following duties:

(1) coordinating and monitoring the activities of the agencies implementing the Minnesota Trafficking Victims Protection Act;

(2) facilitating local efforts and ensuring statewide coordination of efforts to prevent trafficking;

(3) facilitating training for personnel;

(4) monitoring compliance with investigative protocols; and

(5) implementing an outcome evaluation and data quality control process.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective July 1, 2005.

ARTICLE 3
APPROPRIATIONS

Section 1. [ASSESSMENT AND POLICY DEVELOPMENT AND IMPLEMENTATION.]

$125,000 for the fiscal year ending June 30, 2006, and $125,000 for the fiscal year ending June 30, 2007, are appropriated from the general fund to the commissioner of public safety to be used in the prevention of human trafficking and to carry out the commissioner's duties under article 2."

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "requiring a trafficking study; requiring the commissioner of public safety to collect and analyze trafficking data and undertake law enforcement and other agency training initiatives; requiring the commissioner to establish public awareness programs designed to target persons at risk of trafficking; requiring the commissioner to coordinate services for trafficking victims; establishing a trafficking interagency advisory committee; providing for appointment of a trafficking coordinator; appropriating money;"

Page 1, line 14, delete "chapter" and insert "chapters 299A;"

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

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

S.F. No. 2032: A bill for an act relating to state government; creating an Office of Enterprise Technology; appropriating money; amending Minnesota Statutes 2004, sections 16B.04, subdivision 2; 16B.48, subdivisions 4, 5; 16E.01, subdivisions 1, 3; 16E.02; 16E.03, subdivisions 1, 2, 3, 7; 16E.04; 16E.0465, subdivision 2; 16E.055; 16E.07, subdivision 8; 299C.65, subdivisions 1, 2; 403.36, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16E; repealing Minnesota Statutes 2004, sections 16B.48, subdivision 3; 16E.0465, subdivision 3.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

OFFICE OF ENTERPRISE TECHNOLOGY

Section 1. Minnesota Statutes 2004, section 16E.01, subdivision 1, is amended to read:

Subdivision 1. [~~PURPOSE~~ CREATION; CHIEF INFORMATION OFFICER.] The Office of Enterprise Technology, referred to in this chapter as the "office," is ~~under the supervision of the commissioner of administration~~ an agency in the executive branch headed by the state chief information officer.

Subd. 1a. [RESPONSIBILITIES.] The office shall provide oversight, leadership, and direction

for information and ~~communications~~ telecommunications technology policy and the management and delivery of information and telecommunications technology systems and services in Minnesota. The office shall ~~coordinate~~ manage strategic investments in information and ~~communications~~ telecommunications technology systems and services to encourage the development of a technically literate society ~~and~~, to ensure sufficient access to and efficient delivery of government services, and to maximize benefits for the state government as an enterprise.

Sec. 2. Minnesota Statutes 2004, section 16E.01, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] (a) The office shall:

(1) ~~coordinate~~ manage the efficient and effective use of available federal, state, local, and ~~private~~ public-private resources to develop statewide information and ~~communications~~ telecommunications technology systems and services and its infrastructure;

(2) ~~review~~ approve state agency and intergovernmental information and ~~communications~~ telecommunications technology systems and services development efforts involving state or intergovernmental funding, including federal funding, provide information to the legislature regarding projects reviewed, and recommend projects for inclusion in the governor's budget under section 16A.11;

(3) ~~encourage~~ ensure cooperation and collaboration among state and local governments in developing intergovernmental ~~communication and~~ information and telecommunications technology systems and services, and define the structure and responsibilities of ~~the Information Policy Council~~ a representative governance structure;

(4) cooperate and collaborate with the legislative and judicial branches in the development of information and communications systems in those branches;

(5) continue the development of North Star, the state's official comprehensive on-line service and information initiative;

(6) promote and collaborate with the state's agencies in the state's transition to an effectively competitive telecommunications market;

(7) collaborate with entities carrying out education and lifelong learning initiatives to assist Minnesotans in developing technical literacy and obtaining access to ongoing learning resources;

(8) promote and coordinate public information access and network initiatives, consistent with chapter 13, to connect Minnesota's citizens and communities to each other, to their governments, and to the world;

(9) promote and coordinate electronic commerce initiatives to ensure that Minnesota businesses and citizens can successfully compete in the global economy;

(10) manage and promote ~~and coordinate~~ the regular and periodic reinvestment in the ~~core~~ information ~~communications~~ and telecommunications technology systems and services infrastructure so that state and local government agencies can effectively and efficiently serve their customers;

(11) facilitate the cooperative development of and ensure compliance with standards and policies for information and telecommunications technology systems and services, electronic data practices and privacy, and electronic commerce among international, national, state, and local public and private organizations; ~~and~~

(12) ~~work with others to avoid~~ eliminate unnecessary duplication of existing information and telecommunications technology systems and services provided by other public and private organizations while building on the existing governmental, educational, business, health care, and economic development infrastructures; and

(13) identify, sponsor, develop, and execute shared information and telecommunications technology projects and ongoing operations.

(b) The ~~commissioner of administration~~ chief information officer in consultation with the commissioner of finance ~~may~~ must determine ~~that~~ when it is cost-effective for agencies to develop and use shared information and ~~communications~~ telecommunications technology systems and services for the delivery of electronic government services. ~~This determination may be made if an agency proposes a new system that duplicates an existing system, a system in development, or a system being proposed by another agency.~~ The ~~commissioner of administration~~ chief information officer may require agencies to use shared information and telecommunications technology systems and services. The chief information officer shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to agencies and other governmental entities sufficient to cover the actual development, operating, maintenance, and administrative costs of the shared systems. The methodology for billing may include the use of interagency agreements, or other means as allowed by law.

(c) At the request of the chief information officer, the commissioner of administration shall, under section 16B.37, transfer from state agencies to the Office of Enterprise Technology employees, powers, and functions the commissioner deems necessary to the Office of Enterprise Technology.

Sec. 3. Minnesota Statutes 2004, section 16E.02, is amended to read:

16E.02 [OFFICE OF ENTERPRISE TECHNOLOGY; STRUCTURE AND PERSONNEL.]

Subdivision 1. [OFFICE MANAGEMENT AND STRUCTURE.] (a) The ~~commissioner of administration~~ chief information officer is appointed by the governor. The chief information officer serves in the unclassified service at the pleasure of the governor. The chief information officer must have experience leading enterprise-level information technology organizations. The chief information officer is the state's chief information officer and information and telecommunications technology advisor to the governor.

(b) The chief information officer may appoint other employees of the office. The staff of the office must include individuals knowledgeable in information and ~~communications~~ telecommunications technology systems and services.

Subd. 1a. [ACCOUNTABILITY.] The governor may designate an official or subgroup within the governor's cabinet to whom the chief information officer reports. The chief information officer is accountable to this person or subgroup for meeting individual and organizational performance measures.

Subd. 2. [INTERGOVERNMENTAL PARTICIPATION.] The ~~commissioner of administration~~ chief information officer or the ~~commissioner's~~ chief information officer's designee shall serve as a member of ~~the Minnesota Education Telecommunications Council,~~ the Geographic Information Systems Council~~,~~ and the Library Planning Task Force~~,~~ or their respective successor organizations~~,~~ and as a nonvoting member of ~~Minnesota Technology, Inc. and~~ the Minnesota Health Data Institute ~~as a nonvoting member~~.

Subd. 3. [ADMINISTRATIVE SUPPORT.] The commissioner of administration must provide office space and administrative support services to the office. The office must reimburse the commissioner for these services.

Sec. 4. Minnesota Statutes 2004, section 16E.03, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of ~~sections 16E.03 to 16E.05~~ chapter 16E, the following terms have the meanings given them.

(a) "Information and telecommunications technology systems and services" means all computing and telecommunications hardware and software and the activities undertaken to acquire, transport, process, analyze, store, and disseminate information electronically. "Information and telecommunications technology systems and services" includes all proposed

expenditures for computing and telecommunications hardware and software, and related consulting or other professional services.

~~(a)~~ (b) "Information and ~~communications~~ telecommunications technology project" means ~~the development or acquisition of information and communications technology devices and systems, but does not include the state information insfrastructure or its contractors.~~

~~(b) "Data processing device or system" means equipment or computer programs, including computer hardware, firmware, software, and communication protocols, used in connection with the processing of information through electronic data processing means, and includes data communication devices used in connection with computer facilities for the transmission of data.~~ an effort to acquire or produce information and telecommunications technology systems and services.

(c) "Telecommunications" means voice, video and data electronic transmissions transported by wire, wireless, fiber-optic, radio or other available transport technology.

(d) "Cyber security" means the protection of data and systems in networks connected to the Internet.

~~(c)~~ (e) "State agency" means an agency in the executive branch of state government and includes the Minnesota Higher Education Services Office.

Sec. 5. Minnesota Statutes 2004, section 16E.03, subdivision 2, is amended to read:

Subd. 2. [~~COMMISSIONER'S~~ CHIEF INFORMATION OFFICER RESPONSIBILITY.] The ~~commissioner~~ chief information officer shall coordinate the state's information and ~~communications~~ telecommunications technology systems and services to serve the needs of the state government. The ~~commissioner~~ chief information officer shall:

(1) ~~coordinate the~~ design ~~of~~ a master plan for information and ~~communications~~ telecommunications technology systems and services in the state and its political subdivisions and shall report on the plan to the governor and legislature at the beginning of each regular session;

(2) coordinate, review, and approve all information and ~~communications~~ telecommunications technology ~~plans and contracts~~ projects and oversee the state's information and ~~communications~~ telecommunications technology systems and services;

(3) establish and enforce compliance with standards for information and ~~communications~~ telecommunications technology systems and services that ~~encourage competition~~ are cost effective and support open systems environments and that are compatible with state, national, and international standards; ~~and~~

(4) maintain a library of systems and programs developed by the state and its political subdivisions for use by agencies of government; and

(5) direct and manage the shared operations of the state's information and telecommunications technology systems and services.

Sec. 6. Minnesota Statutes 2004, section 16E.03, subdivision 3, is amended to read:

Subd. 3. [EVALUATION AND APPROVAL.] A state agency may not undertake an information and ~~communications~~ telecommunications technology project until it has been evaluated according to the procedures developed under subdivision 4. The ~~governor or governor's designee~~ chief information officer shall give written approval of the proposed project. If the proposed project is not approved, the commissioner of finance shall cancel the unencumbered balance of any appropriation allotted for the project. ~~This subdivision does not apply to acquisitions or development of information and communications systems that have anticipated total cost of less than $100,000.~~ The Minnesota State Colleges and Universities shall submit for approval any project related to acquisitions or development of information and ~~communications~~ telecommunications technology systems and services that has a total anticipated cost of more than $250,000.

Sec. 7. Minnesota Statutes 2004, section 16E.03, subdivision 7, is amended to read:

Subd. 7. [~~DATA~~ CYBER SECURITY SYSTEMS.] In consultation with the attorney general and appropriate agency heads, the ~~commissioner~~ chief information officer shall develop ~~data~~ cyber security policies, guidelines, and standards, and ~~the commissioner of administration~~ shall install and administer state data security systems on the state's ~~centralized~~ computer ~~facility~~ facilities consistent with these policies, guidelines, standards, and state law to ensure the integrity of computer-based and other data and to ensure applicable limitations on access to data, consistent with the public's right to know as defined in chapter 13. Each department or agency head is responsible for the security of the department's or agency's data within the guidelines of established enterprise policy.

Sec. 8. Minnesota Statutes 2004, section 16E.04, is amended to read:

16E.04 [INFORMATION AND ~~COMMUNICATIONS~~ TELECOMMUNICATIONS TECHNOLOGY POLICY.]

Subdivision 1. [DEVELOPMENT.] The office shall ~~coordinate with state agencies in developing and establishing~~ develop, establish, and enforce policies and standards for state agencies to follow in developing and purchasing information and ~~communications~~ telecommunications technology systems and services and training appropriate persons in their use. The office shall develop, promote, and ~~coordinate~~ manage state technology, architecture, standards and guidelines, information needs analysis techniques, contracts for the purchase of equipment and services, and training of state agency personnel on these issues.

Subd. 2. [RESPONSIBILITIES.] (a) In addition to other activities prescribed by law, the office shall carry out the duties set out in this subdivision.

(b) The office shall develop and establish a state information architecture to ensure that ~~further~~ state agency development and purchase of information and communications systems, equipment, and services is designed to ensure that individual agency information systems complement and do not needlessly duplicate or conflict with the systems of other agencies. When state agencies have need for the same or similar public data, the ~~commissioner~~ chief information officer, in coordination with the affected agencies, shall ~~promote~~ manage the most efficient and cost-effective method of producing and storing data for or sharing data between those agencies. The development of this information architecture must include the establishment of standards and guidelines to be followed by state agencies. The office shall ensure compliance with the architecture.

(c) The office shall assist state agencies in the planning and management of information systems so that an individual information system reflects and supports the state agency's mission and the state's requirements and functions. The office shall review and approve agency strategic plans to ensure consistency with enterprise information and telecommunications technology strategy.

(d) The office shall review and approve agency requests for legislative appropriations for the development or purchase of information systems equipment or software.

(e) The office shall review major purchases of information systems equipment to:

(1) ensure that the equipment follows the standards and guidelines of the state information architecture;

(2) ensure ~~that the equipment is consistent with the information management principles adopted by the Information Policy Council;~~

~~(3) evaluate whether~~ the agency's proposed purchase reflects a cost-effective policy regarding volume purchasing; and

~~(4)~~ (3) ensure that the equipment is consistent with other systems in other state agencies so that data can be shared among agencies, unless the office determines that the agency purchasing the equipment has special needs justifying the inconsistency.

(f) The office shall review the operation of information systems by state agencies and ~~provide advice and assistance to~~ ensure that these systems are operated efficiently and continually meet the standards and guidelines established by the office. The standards and guidelines must emphasize uniformity that is cost-effective for the enterprise, that encourages information interchange, open systems environments, and portability of information whenever practicable and consistent with an agency's authority and chapter 13.

(g) The office shall conduct a comprehensive review at least every three years of the information systems investments that have been made by state agencies and higher education institutions. The review must include recommendations on any information systems applications that could be provided in a more cost-beneficial manner by an outside source. The office must report the results of its review to the legislature and the governor.

Subd. 3. [RISK ASSESSMENT AND MITIGATION.] (a) A risk assessment and risk mitigation plan are required for ~~an~~ all information systems development ~~project estimated to cost more than $1,000,000 that is~~ projects undertaken by a state agency in the executive or judicial branch or by a constitutional officer. The ~~commissioner of administration~~ chief information officer must contract with an entity outside of state government to conduct the initial assessment and prepare the mitigation plan for a project estimated to cost more than $5,000,000. The outside entity conducting the risk assessment and preparing the mitigation plan must not have any other direct or indirect financial interest in the project. The risk assessment and risk mitigation plan must provide for periodic monitoring by the commissioner until the project is completed.

(b) The risk assessment and risk mitigation plan must be paid for with money appropriated for the information ~~systems development~~ and telecommunications technology project. The commissioner of finance shall ensure that no more than ten percent of the amount anticipated to be spent on the project, other than the money spent on the risk assessment and risk mitigation plan, ~~may be~~ is spent until the risk assessment and mitigation plan are reported to the ~~commissioner of administration~~ chief information officer and the ~~commissioner~~ chief information officer has approved the risk mitigation plan.

Sec. 9. Minnesota Statutes 2004, section 16E.0465, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] This section applies to an appropriation of more than $1,000,000 of state or federal funds to a state agency for any information and ~~communications~~ telecommunications technology project ~~or data processing device or system~~ or for any phase of such a project, device, or system. For purposes of this section, an appropriation of state or federal funds to a state agency includes an appropriation:

(1) to the Minnesota State Colleges and Universities;

(2) to a constitutional officer;

(3) for a project that includes both a state agency and units of local government; and

(4) to a state agency for grants to be made to other entities.

Sec. 10. Minnesota Statutes 2004, section 16E.0465, subdivision 2, is amended to read:

Subd. 2. [REQUIRED REVIEW AND APPROVAL.] (a) A state agency receiving an appropriation for an information and ~~communications~~ telecommunications technology project ~~or data processing device or system~~ subject to this section must divide the project into phases.

(b) The commissioner of finance may not authorize the encumbrance or expenditure of an appropriation of state funds to a state agency for any phase of a project, device, or system subject to this section unless the Office of Enterprise Technology has reviewed each phase of the project, device, or system, and based on this review, the ~~commissioner of administration~~ chief information officer has determined for each phase that:

(1) the project is compatible with the state information architecture and other policies and standards established by the ~~commissioner of administration~~ chief information officer; ~~and~~

(2) the agency is able to accomplish the goals of the phase of the project with the funds appropriated; and

(3) the project supports the enterprise information technology strategy.

Sec. 11. Minnesota Statutes 2004, section 16E.055, is amended to read:

16E.055 [~~COMMON WEB FORMAT~~ ELECTRONIC GOVERNMENT SERVICES.]

A state agency that implements electronic government services for fees, licenses, sales, or other purposes must use ~~a common Web page format approved by the commissioner of administration for those electronic government services. The commissioner may create a~~ the single entry site created by the chief information officer for all agencies to use for electronic government services.

Sec. 12. Minnesota Statutes 2004, section 16E.07, subdivision 8, is amended to read:

Subd. 8. [SECURE TRANSACTION SYSTEM.] The office shall plan and develop a secure transaction system to support delivery of government services electronically. A state agency that implements electronic government services for fees, licenses, sales, or other purposes must use the secure transaction system developed in accordance with this section.

Sec. 13. [16E.14] [ENTERPRISE TECHNOLOGY REVOLVING FUND.]

Subdivision 1. [FUND.] Money in the enterprise technology revolving fund is appropriated annually to the chief information officer to operate information and telecommunications services, including management, consultation, and design services.

Subd. 2. [REIMBURSEMENTS.] Except as specifically provided otherwise by law, each agency shall reimburse the enterprise technology revolving fund for the cost of all services, supplies, materials, labor, and depreciation of equipment, including reasonable overhead costs, which the chief information officer is authorized and directed to furnish an agency. The chief information officer shall report the rates to be charged for the revolving fund no later than July 1 each year to the chair of the committee or division in the senate and house of representatives with primary jurisdiction over the budget of the Office of Enterprise Technology. The commissioner of finance shall make appropriate transfers to the revolving fund when requested by the chief information officer. The chief information officer may make allotments, encumbrances, and, with the approval of the commissioner of finance, disbursements in anticipation of such transfers. In addition, the chief information officer, with the approval of the commissioner of finance, may require an agency to make advance payments to the revolving fund sufficient to cover the office's estimated obligation for a period of at least 60 days. All reimbursements and other money received by the chief information officer under this section must be deposited in the enterprise technology revolving fund. If the enterprise technology revolving fund is abolished or liquidated, the total net profit from the operation of the fund must be distributed to the various funds from which purchases were made. The amount to be distributed to each fund must bear to the net profit the same ratio as the total purchases from each fund bears to the total purchases from all the funds during the same period of time.

ARTICLE 2

TRANSFER OF DUTIES AND CONFORMING CHANGES

Section 1. Minnesota Statutes 2004, section 16B.04, subdivision 2, is amended to read:

Subd. 2. [POWERS AND DUTIES, GENERAL.] Subject to other provisions of this chapter, the commissioner is authorized to:

(1) supervise, control, review, and approve all state contracts and purchasing;

(2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;

(3) ~~approve all computer plans and contracts, and oversee the state's data processing system;~~

~~(4)~~ investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;

~~(5)~~ (4) manage and control state property, real and personal;

~~(6)~~ (5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;

~~(7)~~ (6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;

~~(8)~~ (7) provide central duplicating, printing, and mail facilities;

~~(9)~~ (8) oversee publication of official documents and provide for their sale;

~~(10)~~ (9) manage and operate parking facilities for state employees and a central motor pool for travel on state business;

~~(11)~~ (10) establish and administer a State Building Code; and

~~(12)~~ (11) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter. The commissioner shall report back to the legislature by October 1, 1984, with the recommendation to implement the private day care operation.

Sec. 2. Minnesota Statutes 2004, section 16B.48, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENTS.] Except as specifically provided otherwise by law, each agency shall reimburse ~~intertechnologies and~~ the general services revolving funds for the cost of all services, supplies, materials, labor, and depreciation of equipment, including reasonable overhead costs, which the commissioner is authorized and directed to furnish an agency. The cost of all publications or other materials produced by the commissioner and financed from the general services revolving fund must include reasonable overhead costs. The commissioner of administration shall report the rates to be charged for ~~each~~ the general services revolving ~~fund~~ funds no later than July 1 each year to the chair of the committee or division in the senate and house of representatives with primary jurisdiction over the budget of the Department of Administration. The commissioner of finance shall make appropriate transfers to the revolving funds described in this section when requested by the commissioner of administration. The commissioner of administration may make allotments, encumbrances, and, with the approval of the commissioner of finance, disbursements in anticipation of such transfers. In addition, the commissioner of administration, with the approval of the commissioner of finance, may require an agency to make advance payments to the revolving funds in this section sufficient to cover the agency's estimated obligation for a period of at least 60 days. All reimbursements and other money received by the commissioner of administration under this section must be deposited in the appropriate revolving fund. Any earnings remaining in the fund established to account for the documents service prescribed by section 16B.51 at the end of each fiscal year not otherwise needed for present or future operations, as determined by the commissioners of administration and finance, must be transferred to the general fund.

Sec. 3. Minnesota Statutes 2004, section 16B.48, subdivision 5, is amended to read:

Subd. 5. [LIQUIDATION.] If the ~~intertechnologies or~~ general services revolving ~~fund is~~ funds are abolished or liquidated, the total net profit from the operation of each fund must be distributed to the various funds from which purchases were made. The amount to be distributed to each fund must bear to the net profit the same ratio as the total purchases from each fund bears to the total purchases from all the funds during the same period of time.

Sec. 4. Minnesota Statutes 2004, 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 ~~commissioner of administration~~ state chief information officer, the commissioner of finance, and

four members of the judicial branch appointed by the chief justice of the Supreme Court. 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 of statewide criminal justice information system integration (CriMNet). The policy group may hire a program manager to manage the CriMNet projects and to be responsible for the day-to-day operations of CriMNet. 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; and

(8) proven methodology.

(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. 5. Minnesota Statutes 2004, section 299C.65, subdivision 2, is amended to read:

Subd. 2. [REPORT, TASK FORCE.] (a) The policy group shall file an annual report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over criminal justice funding and policy by December 1 of each year.

(b) The report must make recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently. To assist them in developing their recommendations, the policy group shall appoint a task force consisting of its members or their designees and the following additional members:

(1) the director of the Office of Strategic and Long-Range Planning;

(2) two sheriffs recommended by the Minnesota Sheriffs Association;

(3) two police chiefs recommended by the Minnesota Chiefs of Police Association;

(4) two county attorneys recommended by the Minnesota County Attorneys Association;

(5) two city attorneys recommended by the Minnesota League of Cities;

(6) two public defenders appointed by the Board of Public Defense;

(7) two district judges appointed by the Conference of Chief Judges, one of whom is currently assigned to the juvenile court;

(8) two community corrections administrators recommended by the Minnesota Association of Counties, one of whom represents a community corrections act county;

(9) two probation officers;

(10) four public members, one of whom has been a victim of crime, and two who are representatives of the private business community who have expertise in integrated information systems;

(11) two court administrators;

(12) one member of the house of representatives appointed by the speaker of the house;

(13) one member of the senate appointed by the majority leader;

(14) the attorney general or a designee;

(15) the ~~commissioner of administration~~ state chief information officer or a designee;

(16) an individual recommended by the Minnesota League of Cities; and

(17) an individual recommended by the Minnesota Association of Counties.

In making these appointments, the appointing authority shall select members with expertise in integrated data systems or best practices.

(c) The commissioner of public safety may appoint additional, nonvoting members to the task force as necessary from time to time.

Sec. 6. Minnesota Statutes 2004, section 403.36, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] (a) The commissioner of public safety shall convene and chair the Statewide Radio Board to develop a project plan for a statewide, shared, trunked public safety radio communication system. The system may be referred to as "Allied Radio Matrix for Emergency Response," or "ARMER."

(b) The board consists of the following members or their designees:

(1) the commissioner of public safety;

(2) the commissioner of transportation;

(3) the ~~commissioner of administration~~ state chief information officer;

(4) the commissioner of natural resources;

(5) the chief of the Minnesota State Patrol;

(6) the commissioner of health;

(7) the commissioner of finance;

(8) two elected city officials, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the League of Minnesota Cities;

(9) two elected county officials, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the Association of Minnesota Counties;

(10) two sheriffs, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the Minnesota Sheriffs' Association;

(11) two chiefs of police, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Chiefs' of Police Association;

(12) two fire chiefs, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Fire Chiefs' Association;

(13) two representatives of emergency medical service providers, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Ambulance Association;

(14) the chair of the Metropolitan Radio Board; and

(15) a representative of Greater Minnesota elected by those units of government in phase three and any subsequent phase of development as defined in the statewide, shared radio and communication plan, who have submitted a plan to the Statewide Radio Board and where development has been initiated.

(c) The Statewide Radio Board shall coordinate the appointment of board members representing Greater Minnesota with the appointing authorities and may designate the geographic region or regions from which an appointed board member is selected where necessary to provide representation from throughout the state.

Sec. 7. [TRANSFER OF DUTIES.]

Responsibilities of the commissioner of administration for state telecommunications systems, state information infrastructure, and electronic conduct of state business under Minnesota Statutes, sections 16B.405; 16B.44; 16B.46; 16B.465; 16B.466; and 16B.467, are transferred to the Office of Enterprise Technology. All positions in the Office of Technology and the Intertechnologies Group are transferred to the Office of Enterprise Technology.

Sec. 8. [REVISOR INSTRUCTION.]

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall:

(1) substitute the term "chief information officer" for "commissioner" and "commissioner of administration" in the following sections of Minnesota Statutes: 16B.405; 16B.44; 16B.46; 16B.465; 16B.466; 16B.467; 16E.03, subdivisions 4, 5, 6, and 8; 16E.035; and 16E.07, subdivision 4;

(2) substitute the term "Office of Enterprise Technology" for the term "Office of Technology" in Minnesota Statutes; and

(3) recodify the following sections of Minnesota Statutes into Minnesota Statutes, chapter 16E: 16B.405; 16B.44; 16B.46; 16B.465; 16B.466; and 16B.467.

Sec. 9. [REPEALER.]

Minnesota Statutes 2004, sections 16B.48, subdivision 3; and 16E.0465, subdivision 3, are repealed.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective July 1, 2005."

Amend the title as follows:

Page 1, line 7, delete the first "subdivision" and insert "subdivisions 1,"

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

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

H.F. No. 2126 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		2126	1991		

and that the above Senate File be indefinitely postponed.

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

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which were referred the following appointments:

BOARD OF ANIMAL HEALTH

Steve Brake
Paul Fitzsimmons
John Whitten

DEPARTMENT OF VETERANS AFFAIRS
COMMISSIONER

Clark Dyrud

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

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

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

S.F. No. 1148: A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and families, including general education, education excellence, special education, facilities and technology, early childhood family support, and prevention; providing for rulemaking; amending Minnesota Statutes 2004, sections 119A.46, subdivisions 1, 2, 3, 8; 120B.11, subdivisions 1, 2, 3, 4, 5, 8; 121A.06, subdivisions 2, 3; 121A.53; 122A.06, subdivision 4; 122A.09, subdivision 4; 122A.18, subdivision 2a; 123A.05, subdivision 2; 123B.143, subdivision 1; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.59, subdivisions 3, 3a; 123B.63, subdivision 2; 123B.71, subdivisions 8, 12; 123B.75, by adding a subdivision; 123B.76, subdivision 3; 123B.79, subdivision 6; 123B.81, subdivision 1; 123B.82; 123B.83, subdivision 2; 124D.095, subdivision 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 6; 124D.135, subdivision 5; 124D.16, subdivision 3; 124D.68, subdivision 9; 124D.69, subdivision 1; 124D.74, subdivision 1; 124D.81, subdivision 1; 124D.84, subdivision 1; 125A.24; 125A.28; 126C.01, subdivision 11; 126C.05, by adding a subdivision; 126C.15, subdivisions 1, 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivisions 2, 8; 127A.49, subdivision 3; 134.31, by adding a subdivision; 275.14; 275.16; 469.177, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 127A; repealing Minnesota Statutes 2004, sections 123B.83, subdivision 1; 126C.42, subdivisions 1, 4.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2004, section 13.321, is amended by adding a subdivision to read:

Subd. 10. [TEACHER DATA FROM VALUE-ADDED ASSESSMENT MODEL.] Data on individual teachers generated from a value-added assessment model are governed under section 120B.362.

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

Sec. 2. [120A.38] [CLASSROOM PLACEMENT; PARENT DISCRETION.]

(a) A parent or guardian of twins or higher order multiples may request that the children be

placed in the same classroom or in separate classrooms if the children are in the same grade level at the same school. The school may recommend classroom placement to the parents and provide professional education advice to the parents to assist them in making the best decision for their children's education. A school must provide the placement requested by the children's parent or guardian, unless the school board makes a classroom placement determination following the school principal's request according to this section. The parent or guardian must request the classroom placement no later than 14 days after the first day of each school year or 14 days after the first day of attendance of the children during a school year if the children are enrolled in the school after the school year commences. At the end of the initial grading period, if the school principal, in consultation with the children's classroom teacher, determines that the requested classroom placement is disruptive to the school, the school principal may request that the school board determine the children's classroom placement.

(b) For purposes of this section, "higher order multiples" means triplets, quadruplets, quintuplets, or more.

[EFFECTIVE DATE.] This section is effective for the 2005-2006 school year and later.

Sec. 3. Minnesota Statutes 2004, section 120B.02, is amended to read:

120B.02 [EDUCATIONAL EXPECTATIONS FOR MINNESOTA'S STUDENTS.]

(a) The legislature is committed to establishing rigorous academic standards for Minnesota's public school students. To that end, the commissioner shall adopt in rule statewide academic standards. The commissioner shall not prescribe in rule or otherwise the delivery system, classroom assessments, or form of instruction that school sites must use. For purposes of this chapter, a school site is a separate facility, or a separate program within a facility that a local school board recognizes as a school site for funding purposes.

(b) All commissioner actions regarding the rule must be premised on the following:

(1) the rule is intended to raise academic expectations for students, teachers, and schools;

(2) any state action regarding the rule must evidence consideration of school district autonomy; and

(3) the Department of Education, with the assistance of school districts, must make available information about all state initiatives related to the rule to students and parents, teachers, and the general public in a timely format that is appropriate, comprehensive, and readily understandable.

(c) When fully implemented, the requirements for high school graduation in Minnesota must require students to ~~pass the basic skills test requirements and~~ satisfactorily complete, as determined by the school district, the course credit requirements under section 120B.024 and:

(1) for students enrolled in grade 8 before the 2005-2006 school year, to pass the basic skills test requirements; or

(2) for students enrolled in grade 8 in the 2005-2006 school year and later, to pass the Minnesota Comprehensive Assessments Second Edition (MCA-IIs).

(d) The commissioner shall periodically review and report on the state's assessment process.

(e) School districts are not required to adopt specific provisions of ~~the Goals 2000 and~~ the federal School-to-Work programs.

Sec. 4. Minnesota Statutes 2004, section 120B.021, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACADEMIC STANDARDS.] The following subject areas are required for statewide accountability:

(1) language arts;

(2) mathematics;

(3) science;

(4) social studies, including history, geography, economics, and government and citizenship;

(5) health and physical education, for which locally developed academic standards apply; and

(6) the arts, for which statewide or locally developed academic standards apply, as determined by the school district. Public elementary and middle schools must offer at least three and require at least two of the following four arts areas: dance; music; theater; and visual arts. Public high schools must offer at least three and require at least one of the following five arts areas: media arts; dance; music; theater; and visual arts.

The commissioner must submit proposed standards in science and social studies to the legislature by February 1, 2004.

For purposes of applicable federal law, the academic standards for language arts, mathematics, and science apply to all public school students, except the very few students with extreme cognitive or physical impairments for whom an individualized education plan team has determined that the required academic standards are inappropriate. An individualized education plan team that makes this determination must establish alternative standards.

A school district, no later than the 2007-2008 school year, must adopt graduation requirements that meet or exceed state graduation requirements established in law or rule. A school district that incorporates these state graduation requirements before the 2007-2008 school year must provide students who enter the 9th grade in or before the 2003-2004 school year the opportunity to earn a diploma based on existing locally established graduation requirements in effect when the students entered the 9th grade. District efforts to develop, implement, or improve instruction or curriculum as a result of the provisions of this section must be consistent with sections 120B.10, 120B.11, and 120B.20.

At a minimum, school districts must maintain the same physical education and health education requirements for kindergarten through 8th grade students adopted for the 2004-2005 school year through the 2007-2008 school year. Before a revision of the local health and physical education standards, a school district must consult the grade-specific benchmarks developed by the Department of Education's health and physical education quality teaching network for the six national physical education standards and the seven national health standards.

Sec. 5. Minnesota Statutes 2004, section 120B.021, is amended by adding a subdivision to read:

Subd. 1a. [RIGOROUS COURSE OF STUDY; WAIVER.] (a) Upon receiving a student's application signed by the student's parent or guardian, a school district, area learning center, or charter school must declare that a student meets or exceeds a specific academic standard required for graduation under this section if the local school board, the school board of the school district in which the area learning center is located, or the charter school board of directors determines that the student:

(1) is participating in a course of study including an advanced placement or international baccalaureate course or program, a learning opportunity outside the curriculum of the district, area learning center or charter school, or an approved preparatory program for employment or postsecondary education that is equally or more rigorous than the corresponding state or local academic standard required by the district, area learning center or charter school;

(2) would be precluded from participating in the rigorous course of study, learning opportunity, or preparatory employment or postsecondary education program if the student were required to achieve the academic standard to be waived; and

(3) satisfactorily completes the requirements for the rigorous course of study, learning opportunity or preparatory employment or postsecondary education program.

Consistent with the requirements of this section, the local school board, the school board of the school district in which the area learning center is located, or the charter school board of directors also may formally determine other circumstances in which to declare that a student meets or exceeds a specific academic standard that the site requires for graduation under this section.

(b) A student who satisfactorily completes a postsecondary enrollment options course or program under section 124D.09 is not required to complete other requirements of the academic standards corresponding to that specific rigorous course of study.

Sec. 6. Minnesota Statutes 2004, section 120B.024, is amended to read:

120B.024 [GRADUATION REQUIREMENTS; COURSE CREDITS.]

Students beginning 9th grade in the 2004-2005 school year and later must successfully complete the following high school level course credits for graduation:

(1) four credits of language arts;

(2) three credits of mathematics, encompassing at least ~~algebra, geometry, statistics, and probability sufficient to satisfy the academic standard;~~ the mathematical reasoning, algebra, geometry, statistics, and probability identified in the mathematics grades 9, 10, and 11 standards document;

(3) three credits of science, including at least one credit in biology;

(4) three and one-half credits of social studies, encompassing at least United States history, geography, government and citizenship, world history, and economics or three credits of social studies encompassing at least United States history, geography, government and citizenship, and world history, and one-half credit of economics taught in a school's social studies or business department;

(5) one credit in the arts; ~~and~~

(6) one-half credit in physical education and one-half credit in health education; and

(7) a minimum of ~~seven~~ six elective course credits.

A course credit is equivalent to a student successfully completing an academic year of study or a student mastering the applicable subject matter, as determined by the local school district.

Sec. 7. Minnesota Statutes 2004, section 120B.11, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section and section 120B.10, the following terms have the meanings given them.

(a) "Instruction" means methods of providing learning experiences that ~~enables~~ enable a student to meet state and district academic standards and graduation ~~standards~~ requirements.

(b) "Curriculum" means district or school adopted programs and written plans for providing students with learning experiences that lead to expected knowledge~~,~~ and skills~~, and positive attitudes~~.

Sec. 8. Minnesota Statutes 2004, section 120B.11, subdivision 2, is amended to read:

Subd. 2. [ADOPTING POLICIES.] (a) A school board shall ~~adopt annually a~~ have in place an adopted written policy that includes the following:

(1) district goals for instruction ~~and~~ including the use of best practices, district and school curriculum, and achievement for all student subgroups;

(2) a process for evaluating each student's progress toward meeting ~~graduation~~ academic standards and identifying the strengths and weaknesses of instruction and curriculum affecting students' progress;

(3) a system for periodically reviewing and evaluating all instruction and curriculum;

(4) a plan for improving instruction ~~and~~, curriculum, and student achievement; and

(5) an ~~instruction plan that includes~~ education effectiveness ~~processes developed under~~ plan aligned with section 122A.625 ~~and~~ that integrates instruction, curriculum, and technology.

Sec. 9. Minnesota Statutes 2004, section 120B.11, subdivision 3, is amended to read:

Subd. 3. [~~INSTRUCTION AND CURRICULUM~~ DISTRICT ADVISORY COMMITTEE.] Each school board shall establish an ~~Instruction and Curriculum~~ advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state ~~graduation~~ and district academic standards. A district advisory committee, to the extent possible, shall reflect the diversity of the district and its learning sites, and shall include teachers, parents, support staff, ~~pupils~~ students, and other community residents. The district may establish building teams as subcommittees of the district advisory committee under subdivision 4. The district advisory committee shall recommend to the school board ~~districtwide education standards~~ rigorous academic standards, student achievement goals and measures, assessments, and program evaluations. Learning sites may expand upon district evaluations of instruction, curriculum, assessments, or programs. Whenever possible, parents and other community residents shall comprise at least two-thirds of advisory committee members.

Sec. 10. Minnesota Statutes 2004, section 120B.11, subdivision 4, is amended to read:

Subd. 4. [BUILDING TEAM.] A school may establish a building team to develop and implement an education effectiveness plan to improve instruction ~~and~~, curriculum, and student achievement. The team shall advise the board and the advisory committee about developing an instruction and curriculum improvement plan that aligns curriculum, assessment of student progress in meeting state ~~graduation~~ and district academic standards, and instruction.

Sec. 11. Minnesota Statutes 2004, section 120B.11, subdivision 5, is amended to read:

Subd. 5. [REPORT.] (a) By October 1 of each year, the school board shall use standard statewide reporting procedures the commissioner develops and adopt a report that includes the following:

(1) student ~~performance~~ achievement goals for meeting state ~~graduation~~ academic standards ~~adopted for that year~~;

(2) results of local assessment data, and any additional test data;

(3) the annual school district improvement plans including staff development goals under section 122A.60;

(4) information about district and learning site progress in realizing previously adopted improvement plans; and

(5) the amount and type of revenue attributed to each education site as defined in section 123B.04.

(b) The school board shall publish the report in the local newspaper with the largest circulation in the district ~~or~~, by mail, or by electronic means such as the district Web site. If electronic means are used, copies of the report must be made available to the public on request. The board shall make a copy of the report available to the public for inspection. The board shall send a copy of the report to the commissioner of education by October 15 of each year.

(c) The title of the report shall contain the name and number of the school district and read "Annual Report on Curriculum, Instruction, and Student ~~Performance~~ Achievement." The report must include at least the following information about advisory committee membership:

(1) the name of each committee member and the date when that member's term expires;

(2) the method and criteria the school board uses to select committee members; and

(3) the date by which a community resident must apply to next serve on the committee.

Sec. 12. Minnesota Statutes 2004, section 120B.11, subdivision 8, is amended to read:

Subd. 8. [BIENNIAL EVALUATION; ASSESSMENT PROGRAM.] At least once every two years, the district report shall include an evaluation of the district testing programs, according to the following:

(1) written objectives of the assessment program;

(2) names of tests and grade levels tested;

(3) use of test results; and

(4) ~~implementation of an assurance of mastery program~~ student achievement results compared to previous years.

Sec. 13. Minnesota Statutes 2004, section 120B.13, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM STRUCTURE; TRAINING PROGRAMS FOR TEACHERS.] (a) The advanced placement and international baccalaureate programs are well-established academic programs for mature, academically directed high school students. These programs, in addition to providing academic rigor, offer sound curricular design, accountability, comprehensive external assessment, feedback to students and teachers, and the opportunity for high school students to compete academically on a global level. Advanced placement and international baccalaureate programs allow students to leave high school with the academic skills and self-confidence to succeed in college and beyond. The advanced placement and international baccalaureate programs help provide Minnesota students with world-class educational opportunity.

(b) Critical to schools' educational success is ongoing advanced placement/international baccalaureate-approved teacher training. A secondary teacher assigned by a ~~district~~ public or nonpublic school to teach an advanced placement or international baccalaureate course or other interested educator may participate in a training program offered by The College Board or International Baccalaureate North America, Inc. The state may pay a portion of the tuition, room, ~~and~~ board, and out-of-state travel costs a teacher or other interested educator assigned by a public school incurs in participating in a training program. The commissioner shall determine application procedures and deadlines, ~~and~~ select teachers and other interested educators to participate in the training program, and determine the payment process and amount of the subsidy. The procedures determined by the commissioner shall, to the extent possible, ensure that advanced placement and international baccalaureate courses become available in all parts of the state and that a variety of course offerings are available in school districts. This subdivision does not prevent teacher or other interested educator participation in training programs offered by The College Board or International Baccalaureate North America, Inc., when tuition is paid by a source other than the state.

Sec. 14. Minnesota Statutes 2004, section 120B.13, subdivision 3, is amended to read:

Subd. 3. [SUBSIDY FOR EXAMINATION FEES.] The state may pay all or part of the fee for advanced placement or international baccalaureate examinations ~~for pupils of low-income families in public and nonpublic schools~~. The commissioner shall ~~adopt a schedule for fee subsidies that may allow payment of the entire fee for~~ pay all examination fees for all public and nonpublic students of low-income families, as defined by the commissioner, and to the limit of the available appropriation, shall also pay a portion or all of the examination fees for other public and nonpublic students sitting for an advanced placement examination, international baccalaureate examination, or both. The commissioner shall determine procedures for state payments of fees.

Sec. 15. [120B.15] [GIFTED AND TALENTED STUDENTS PROGRAMS.]

Subdivision 1. [GIFTED AND TALENTED STUDENTS.] School districts must adopt

guidelines for assessing and identifying students for participation in gifted and talented programs. The guidelines should include the use of:

(1) multiple and objective criteria; and

(2) using assessments and procedures that are valid and reliable, fair, and based on current theory and research.

Subd. 2. [STUDENT ACCESS; PROGRAM CONTENT AND DEVELOPMENT.]

(a) Gifted and talented programs may include:

(1) curriculum aligned with the cognitive, affective, developmental, and physical needs of gifted and talented students;

(2) articulated prekindergarten through grade 12 learning experiences;

(3) flexible instructional pacing and subject and grade-based opportunities to accelerate instruction;

(4) rigorous content consistent with students' abilities and social and emotional development;

(5) challenging learning experiences focused on problem solving and advanced reasoning; and

(6) differentiated guidance services to nurture students' social and emotional development.

(b) School districts, in collaboration with interested community members and with technical assistance from the state education department, must offer gifted and talented programs.

[EFFECTIVE DATE.] This section is effective for the 2005-2006 school year and later.

Sec. 16. [120B.25] [AMERICAN HERITAGE EDUCATION.]

School districts shall permit grade-level instruction for students to read and study America's founding documents, including documents that contributed to the foundation or maintenance of America's representative form of limited government, the Bill of Rights, our free-market economic system, and patriotism.

Sec. 17. Minnesota Statutes 2004, section 120B.30, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE TESTING.] (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, consistent with subdivision 1a, shall include in the comprehensive assessment system, for each grade level to be tested, state-constructed tests developed from and aligned with the state's required academic standards under section 120B.021 and administered annually to all students in grades 3 through 8 and at the high school level. A state-developed test in a subject other than writing, developed after the 2002-2003 school year, must include both ~~multiple choice~~ machine-scoreable and constructed response questions. The commissioner shall establish one or more months during which schools shall administer the tests to students each school year. For students enrolled in grade 8 before the 2005-2006 school year, only Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of the state tests in reading and mathematics are the equivalent of:

(1) 70 percent correct for students entering grade 9 in 1996; and

(2) 75 percent correct for students entering grade 9 in 1997 and thereafter, as based on the first uniform test administration of February 1998.

For students enrolled in grade 8 in the 2005-2006 school year and later, only the Minnesota Comprehensive Assessments Second Edition (MCA-IIs) in reading, mathematics, and writing shall fulfill students' academic standard requirements.

(b) The third through 8th grade and high school level test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the test results upon receiving those results.

(c) State tests must be constructed and aligned with state academic standards. The testing process and the order of administration shall be determined by the commissioner. The statewide results shall be aggregated at the site and district level, consistent with subdivision 1a.

(d) In addition to the testing and reporting requirements under this section, the commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide testing of all students in grades 3 through 8 and at the high school level that provides exemptions, only with parent or guardian approval, for those very few students for whom the student's individual education plan team under sections 125A.05 and 125A.06, determines that the student is incapable of taking a statewide test, or for a limited English proficiency student under section 124D.59, subdivision 2, if the student has been in the United States for fewer than three years;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) students' scores on the American College Test; and

(4) state results from participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

(e) Districts must report exemptions under paragraph (d), clause (1), to the commissioner consistent with a format provided by the commissioner.

Sec. 18. Minnesota Statutes 2004, section 120B.30, subdivision 1a, is amended to read:

Subd. 1a. [STATEWIDE AND LOCAL ASSESSMENTS; RESULTS.] (a) The commissioner must develop ~~language arts~~ reading, mathematics, and science assessments aligned with state academic standards that districts and sites must use to monitor student growth toward achieving those standards. The commissioner must not develop statewide assessments for academic standards in social studies and the arts. The commissioner must require:

(1) annual ~~language arts~~ reading and mathematics assessments in grades 3 through 8 and at the high school level for the 2005-2006 school year and later; and

(2) annual science assessments in one grade in the grades 3 through 5 span, the grades 6 through 9 span, and a life sciences assessment in the grades 10 through 12 span for the 2007-2008 school year and later.

(b) The commissioner must ensure that all statewide tests administered to elementary and secondary students measure students' academic knowledge and skills and not students' values, attitudes, and beliefs.

(c) Reporting of assessment results must:

(1) provide timely, useful, and understandable information on the performance of individual students, schools, school districts, and the state;

(2) include, by the 2006-2007 school year, a value-added component to measure student achievement growth over time; and

(3) for students enrolled in grade 8 before the 2005-2006 school year, determine whether students have met the state's basic skills requirements; or

(4) for students enrolled in grade 8 in the 2005-2006 school year and later, determine whether students have met the state's academic standards.

(d) Consistent with applicable federal law and subdivision 1, paragraph (d), clause (1), the commissioner must include alternative assessments for the very few students with disabilities for whom statewide assessments are inappropriate and for students with limited English proficiency.

(e) A school, school district, and charter school must administer statewide assessments under this section, as the assessments become available, to evaluate student progress in achieving the academic standards. If a state assessment is not available, a school, school district, and charter school must determine locally if a student has met the required academic standards. A school, school district, or charter school may use a student's performance on a statewide assessment as one of multiple criteria to determine grade promotion or retention. A school, school district, or charter school may use a high school student's performance on a statewide assessment as a percentage of the student's final grade in a course, or place a student's assessment score on the student's transcript.

Sec. 19. Minnesota Statutes 2004, section 120B.30, is amended by adding a subdivision to read:

Subd. 4. [ACCESS TO TESTS.] The commissioner must adopt and publish a policy to provide public and parental access for review of basic skills tests, Minnesota comprehensive assessments, or any other such statewide test and assessment. Upon receiving a written request, the commissioner must make available to parents or guardians a copy of their student's actual answer sheet to the test questions to be reviewed by the parent and the student's teacher at the school site.

Sec. 20. [120B.361] [VALUE-ADDED ASSESSMENT PROGRAM.]

(a) The commissioner of education must implement a value-added assessment program to assist school districts, public schools, and charter schools in assessing and reporting students' growth in academic achievement under section 120B.30, subdivision 1a. The program must use assessments of students' academic achievement to make longitudinal comparisons of each student's academic growth over time. School districts, public schools, and charter schools may apply to the commissioner to participate in the initial trial program using a form and in the manner the commissioner prescribes. The commissioner must select program participants from urban, suburban, and rural areas throughout the state.

(b) The commissioner may issue a request for a proposal to contract with an organization that provides a value-added assessment model that reliably estimates school and school district effects on students' academic achievement over time. The model the commissioner selects must accommodate diverse data and must use each student's test data across grades.

(c) The contract under paragraph (b) must be consistent with the definition of "best value" under section 16C.02, subdivision 4.

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

Sec. 21. [120B.362] [GRANTS FOR SITE-BASED ACHIEVEMENT CONTRACTS.]

Subdivision 1. [ELIGIBLE SCHOOLS.] (a) The commissioner of education shall award grants to public school sites to increase student achievement and eliminate the achievement gap at the school site.

(b) The commissioner shall select sites that meet the following criteria:

(1) have at least 75 percent of enrollment eligible for free or reduced-price lunch;

(2) have an enrollment where at least 75 percent of the students are students of color; and

(3) have failed to meet adequate yearly progress for at least two consecutive years.

(c) In order to be eligible for a grant under this section, a public school site shall have an approved site decision-making agreement under section 123B.04, including an achievement

contract under section 123B.04, subdivision 4. The site decision-making team shall include the principal or the person having general control of the school site.

(d) The site team shall have a plan approved by the school board and shall also have an agreement with the exclusive bargaining unit of the district to participate in this grant program.

Subd. 2. [APPLICATION.] (a) The applicant shall submit a plan that will result in at least 80 percent of the students at the site testing at a proficient level for their grade by the end of the grant period of six years, with at least 60 percent of the students testing at a proficient level for their grade at the midpoint of the grant period.

(b) The site team shall include in its application a detailed plan for using multiple objective and measurable methods for tracking student achievement during the duration of the grant and shall also include curriculum and academic requirements that are rigorous and challenging for all students. The site shall have the ability to return timely test data to teachers and have a plan that demonstrates that the teachers at the site can use the data to help improve curriculum as well as monitor student achievement.

(c) The applicant shall have in its site-based plan an agreement between the district and the exclusive bargaining unit of the district that would give the site-based team increased stability in the placement of teachers at the site. The applicant shall include other innovative site-based personnel decision-making items in its agreement that may include, but are not limited to: hiring bonuses, additional ongoing collaborative preparation time, on-site staff development, hiring additional staff, and performance-based incentives.

(d) The site team shall also include in its application a plan for a greater involvement of parents and the community in the school, a plan for ensuring that each student at the site can develop a meaningful relationship with at least one teacher at the school site, and a clear approach to school safety, including promoting respect for students and teachers.

Subd. 3. [GRANT AWARDS.] (a) The commissioner shall award grants to a school site in three parts:

(1) one-third of the total grant amount is awarded at the beginning of the grant agreement;

(2) one-third is awarded at the midpoint of the grant agreement if the site has met the achievement goals established in subdivision 2, paragraph (a); and

(3) one-third is awarded upon the completion of the grant agreement if the site has met the achievement goals established in subdivision 2, paragraph (a).

(b) The total grant award for a school site shall be at least $150,000 and shall not exceed $500,000. The commissioner shall determine the grant amount based on the number of students enrolled at the site.

(c) The commissioner shall determine all other aspects of the application and grant award process consistent with this section.

Subd. 4. [REPORT.] The commissioner shall report annually by March 1 during the program, with a final report due by January 15, 2011, to the house of representatives and senate committees having jurisdiction over education on the progress of the program, including at least improvement in student achievement, the effect of innovative personnel decision making on closing the achievement gap, and the characteristics of highly effective teachers.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to the 2005-2006 through 2011-2012 school years.

Sec. 22. Minnesota Statutes 2004, section 121A.06, subdivision 2, is amended to read:

Subd. 2. [REPORTS; CONTENT.] ~~By January 1, 1994, the commissioner, in consultation with the criminal and juvenile information policy group, shall develop a standardized form to be used~~

~~by schools to report incidents involving the use or possession of a dangerous weapon in school zones.~~ School districts must electronically report to the commissioner of education incidents involving the use or possession of a dangerous weapon in school zones. The form ~~shall~~ must include the following information:

(1) a description of each incident, including a description of the dangerous weapon involved in the incident;

(2) where, at what time, and under what circumstances the incident occurred;

(3) information about the offender, other than the offender's name, including the offender's age; whether the offender was a student and, if so, where the offender attended school; and whether the offender was under school expulsion or suspension at the time of the incident;

(4) information about the victim other than the victim's name, if any, including the victim's age; whether the victim was a student and, if so, where the victim attended school; and if the victim was not a student, whether the victim was employed at the school;

(5) the cost of the incident to the school and to the victim; and

(6) the action taken by the school administration to respond to the incident.

The commissioner ~~also~~ shall ~~develop~~ provide an ~~alternative~~ electronic reporting format that allows school districts to provide aggregate data~~, with an option to use computer technology to report the data~~.

Sec. 23. Minnesota Statutes 2004, section 121A.06, subdivision 3, is amended to read:

Subd. 3. [REPORTS; FILING REQUIREMENTS.] By ~~February 1 and~~ July ~~1~~ 31 of each year, each school other than a home school shall report incidents involving the use or possession of a dangerous weapon in school zones to the commissioner. The reports by public schools must be ~~made on the standardized forms or using the alternative format~~ submitted using the electronic reporting system developed by the commissioner under subdivision 2. The commissioner shall compile the information it receives from the schools and report it annually to the commissioner of public safety~~, the criminal and juvenile information policy group,~~ and the legislature.

Sec. 24. [121A.0695] [SCHOOL BOARD POLICY; PROHIBITING INTIMIDATION AND BULLYING.]

Subdivision 1. [INTIMIDATION OR BULLYING DEFINED.] "Intimidation or bullying" means an intentional gesture or a written, oral, or physical act or threat that a reasonable person under the circumstances knows or should know has the effect of:

(1) harming a student;

(2) damaging a student's property;

(3) placing a student in reasonable fear of harm to the student's person;

(4) placing a student in reasonable fear of damage to the student's property; or

(5) creating a severe or persistent environment of intimidation or abuse.

Subd. 2. [MODEL POLICY.] The commissioner of education shall maintain and make available to school boards and other schools a model policy prohibiting intimidation and bullying that addresses the requirements of subdivision 3.

Subd. 3. [SCHOOL BOARD POLICY.] Each school board shall adopt a written policy prohibiting intimidation and bullying of any student, including, but not limited to, the acts defined in subdivision 1. The policy must describe the behavior expected of each student and state the consequences for and the appropriate remedial action to be taken against the person acting to intimidate or bully. The policy must include reporting procedures, including, at a minimum,

requiring school personnel to report student intimidation or bullying incidents and allowing persons to report incidents anonymously. Each district must integrate into its violence prevention program under section 120B.22, if applicable, behavior and expectations established under this section. Each school must include the policy in the student handbook on school policies.

[EFFECTIVE DATE.] This section is effective for the 2005-2006 school year and later.

Sec. 25. [121A.222] [POSSESSION AND USE OF NONPRESCRIPTION PAIN RELIEVERS BY SECONDARY STUDENTS.]

A secondary student may possess and use nonprescription pain relief in a manner consistent with the labeling, if the district has received a written authorization from the student's parent permitting the student to self-administer the medication. The parent must submit written authorization for the student to self-administer the medication each school year. The district may revoke a student's privilege to possess and use nonprescription pain relievers if the district determines that the student is abusing the privilege.

Sec. 26. [121A.231] [COMPREHENSIVE FAMILY LIFE AND SEXUALITY EDUCATION PROGRAMS.]

Subdivision 1. [DEFINITIONS.] (a) "Comprehensive family life and sexuality education" means education in grades 7 through 12 that:

(1) respects community values and encourages family communication;

(2) develops skills in communication, decision making, and conflict resolution;

(3) contributes to healthy relations;

(4) provides human development and sexuality education that is age appropriate and medically accurate;

(5) promotes responsible sexual behavior, including an abstinence-first approach to delaying initiation to sexual activity that emphasizes abstinence while also including education about the use of protection and contraception; and

(6) promotes individual responsibility.

(b) "Age appropriate" refers to topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(c) "Medically accurate" means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, or the American College of Obstetricians and Gynecologists.

Subd. 2. [CURRICULUM REQUIREMENTS.] (a) A school district may offer and may independently establish policies, procedures, curriculum, and services for providing comprehensive family life and sexuality education that is age appropriate and medically accurate for kindergarten through grade 6.

(b) A school district must offer and may independently establish policies, procedures, curriculum, and services for providing comprehensive family life and sexuality education that is age appropriate and medically accurate for grades 7 through 12.

Subd. 3. [NOTICE AND PARENTAL OPTIONS.] (a) It is the legislature's intent to encourage pupils to communicate with their parents or guardians about human sexuality and to respect rights of parents or guardians to supervise their children's education on these subjects.

(b) Parents or guardians may excuse their children from all or part of a comprehensive family life and sexuality education program.

(c) A school district must establish procedures for providing parents or guardians reasonable notice with the following information:

(1) if the district is offering a comprehensive family life and sexuality education program to the parents' or guardians' child during the course of the year;

(2) how the parents or guardians may inspect the written and audio/visual educational materials used in the program and the process for inspection;

(3) if the program is presented by school district personnel or outside consultants, and if outside consultants are used, who they may be; and

(4) parents' or guardians' right to choose not to have their child participate in the program and the procedure for exercising that right.

(d) A school district must establish procedures for reasonably restricting the availability of written and audio/visual educational materials from public view of students who have been excused from all or part of a comprehensive family life and sexuality education program at the request of a parent or guardian.

Subd. 4. [ASSISTANCE TO SCHOOL DISTRICTS.] (a) The Department of Education may offer services to school districts to help them implement effective comprehensive family life and sexuality education programs. In providing these services, the department may contract with a school district, or a school district in partnership with a local health agency or a nonprofit organization, to establish up to eight regional training sites, taking into account geographical balance, to provide:

(1) training for teachers, parents, and community members in the development of comprehensive family life and sexuality education curriculum or services and in planning for monitoring and evaluation activities;

(2) resource staff persons to provide expert training, curriculum development and implementation, and evaluation services;

(3) technical assistance to promote and coordinate community, parent, and youth forums in communities identified as having high needs for comprehensive family life and sexuality education;

(4) technical assistance for issue management and policy development training for school boards, superintendents, principals, and administrators across the state; and

(5) funding for grants to school-based comprehensive family life and sexuality education programs to promote innovation and to recognize outstanding performance and promote replication of demonstrably effective strategies.

(b) Technical assistance provided by the department to school districts or regional training sites may:

(1) promote instruction and use of materials that are age appropriate;

(2) provide information that is medically accurate and objective;

(3) provide instruction and promote use of materials that are respectful of marriage and commitments in relationships;

(4) provide instruction and promote use of materials that are appropriate for use with pupils and family experiences based on race, gender, sexual orientation, ethnic and cultural background, and appropriately accommodate alternative learning based on language or disability;

(5) provide instruction and promote use of materials that encourage pupils to communicate with their parents or guardians about human sexuality;

(6) provide instruction and promote use of age-appropriate materials that teach abstinence from sexual intercourse as the only certain way to prevent unintended pregnancy or sexually transmitted infections, including HIV, and provide information about the role and value of abstinence while also providing medically accurate information on other methods of preventing and reducing risk for unintended pregnancy and sexually transmitted infections;

(7) provide instruction and promote use of age-appropriate materials that are medically accurate in explaining transmission modes, risks, symptoms, and treatments for sexually transmitted infections, including HIV;

(8) provide instruction and promote use of age-appropriate materials that address varied societal views on sexuality, sexual behaviors, pregnancy, and sexually transmitted infections, including HIV, in an age-appropriate manner;

(9) provide instruction and promote use of age-appropriate materials that provide information about the effectiveness and safety of all FDA-approved methods for preventing and reducing risk for unintended pregnancy and sexually transmitted infections, including HIV;

(10) provide instruction and promote use of age-appropriate materials that provide instruction in skills for making and implementing responsible decisions about sexuality;

(11) provide instruction and promote use of age-appropriate materials that provide instruction in skills for making and implementing responsible decisions about finding and using health services; and

(12) provide instruction and promote use of age-appropriate materials that do not teach or promote religious doctrine nor reflect or promote bias against any person on the basis of any category protected under the Minnesota Human Rights Act, chapter 363A.

Sec. 27. Minnesota Statutes 2004, section 121A.53, is amended to read:

121A.53 [REPORT TO COMMISSIONER OF EDUCATION.]

Subdivision 1. [EXCLUSIONS AND EXPULSIONS.] The school board ~~shall~~ must report through the department electronic reporting system each exclusion or expulsion within 30 days of the effective date of the action to the commissioner of education. This report ~~shall~~ must include a statement of alternative educational services given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status.

Subd. 2. [REPORT.] The school board must include state student identification numbers of affected pupils on all dismissal reports required by the department. The department must report annually to the commissioner summary data on the number of dismissals by age, grade, gender, race, and special education status of the affected pupils. All dismissal reports must be submitted through the department electronic reporting system.

Sec. 28. Minnesota Statutes 2004, section 122A.06, subdivision 4, is amended to read:

Subd. 4. [COMPREHENSIVE, SCIENTIFICALLY BASED READING INSTRUCTION.] ~~"Comprehensive, scientifically based reading instruction" includes instruction and practice in phonemic awareness, phonics and other word-recognition skills, and guided oral reading for beginning readers, as well as extensive silent reading, vocabulary instruction, instruction in comprehension, and instruction that fosters understanding and higher-order thinking for readers of all ages and proficiency levels.~~ "Comprehensive, scientifically based reading instruction" includes a program or collection of instructional practices with demonstrated success in instructing learners and reliable and valid evidence to support the conclusion that when these methods are used with learners, they can be expected to achieve, at a minimum, satisfactory progress in reading achievement. The program or collection of practices must include, at a minimum, instruction in five areas of reading: phonemic awareness, phonics, fluency, vocabulary, and text comprehension.

Comprehensive, scientifically based reading instruction also includes and integrates

instructional strategies for continuously assessing and evaluating the learner's reading progress and needs in order to design and implement ongoing interventions so that learners of all ages and proficiency levels can read and comprehend text and apply higher level thinking skills.

Sec. 29. Minnesota Statutes 2004, section 122A.18, subdivision 2a, is amended to read:

Subd. 2a. [READING STRATEGIES.] (a) All colleges and universities approved by the Board of Teaching to prepare persons for classroom teacher licensure must include in their teacher preparation programs ~~reading best practices that enable classroom teacher licensure candidates to know how to teach reading, such as phonics or other~~ research-based best practices in reading, consistent with section 122A.06, subdivision 4, that enable the licensure candidate to know how to teach reading in the candidate's content areas.

(b) Board-approved teacher preparation programs for teachers of elementary education must require instruction in the application of comprehensive, scientifically based, and balanced reading instruction programs~~.~~ that:

(1) teach students to read using foundational knowledge, practices, and strategies consistent with section 122A.06, subdivision 4, so that all students will achieve continuous progress in reading; and

(2) teach specialized instruction in reading strategies, interventions, and remediations that enable students of all ages and proficiency levels to become proficient readers.

Sec. 30. Minnesota Statutes 2004, section 122A.40, subdivision 5, is amended to read:

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

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

(c) A probationary teacher whose first three years of consecutive employment is interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(d) A probationary teacher must complete at least 60 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

[EFFECTIVE DATE.] Paragraph (c) of this section is retroactively effective to September 10, 2001, and applies to those probationary teachers absent for active military service beginning on September 10, 2001, or later. Paragraph (d) of this section is effective July 1, 2005.

Sec. 31. Minnesota Statutes 2004, section 122A.41, subdivision 2, is amended to read:

Subd. 2. [PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.] (a) All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 3. Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3 shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

(b) A probationary teacher whose first three years of consecutive employment is interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(c) A probationary teacher must complete at least 60 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

[EFFECTIVE DATE.] Paragraph (b) of this section is retroactively effective to September 10, 2001, and applies to those probationary teachers absent for active military service beginning on September 10, 2001, or later. Paragraph (c) of this section is effective July 1, 2005.

Sec. 32. Minnesota Statutes 2004, section 122A.41, subdivision 5a, is amended to read:

Subd. 5a. [PROBATIONARY PERIOD FOR PRINCIPALS HIRED INTERNALLY.] A board and the exclusive representative of the school principals in the district may negotiate a plan for a probationary period of up to two school years for licensed teachers employed by the board who are subsequently employed by the board as a licensed school principal or assistant principal and an additional probationary period of up to two years for licensed assistant principals employed by the board who are subsequently employed by the board as a licensed school principal.

[EFFECTIVE DATE.] This section is effective August 1, 2005.

Sec. 33. Minnesota Statutes 2004, section 122A.41, subdivision 14, is amended to read:

Subd. 14. [SERVICES TERMINATED BY DISCONTINUANCE OR LACK OF PUPILS; PREFERENCE GIVEN.] (a) A teacher whose services are terminated on account of discontinuance of position or lack of pupils must receive first consideration for other positions in the district for which that teacher is qualified. In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers must be discontinued in any department in the inverse order in which they were employed, unless a board and the exclusive representative of teachers in the district negotiate a plan providing otherwise.

(b) Notwithstanding the provisions of clause (a), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the Board of Teaching, unless that exercise of seniority results in the termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses.

(c) Notwithstanding the provisions of clause (a), a teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field is available for reinstatement.

[EFFECTIVE DATE.] This section is effective August 1, 2005.

Sec. 34. Minnesota Statutes 2004, section 122A.413, is amended to read:

122A.413 [EDUCATIONAL IMPROVEMENT PLAN.]

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

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

(1) assessment and evaluation tools to measure student performance and progress;

(2) performance goals and benchmarks for improvement;

(3) measures of student attendance and completion rates;

(4) a rigorous professional development system, consistent with section 122A.60, that is aligned with educational improvement, designed to achieve teaching quality improvement, and consistent with clearly defined research-based standards;

(5) measures of student, family, and community involvement and satisfaction;

(6) a data system about students and their academic progress that provides parents and the public with understandable information; ~~and~~

(7) a teacher induction and mentoring program for probationary teachers that provides continuous learning and sustained teacher support~~. The process for developing the plan must involve district teachers~~; and

(8) substantial teacher participation in developing the plan, including teachers selected by the exclusive representative of the teachers.

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

Sec. 35. [122A.4142] [PRINCIPLED PAY PRACTICES FOR TEACHERS.]

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

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

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

(2) an executed collective bargaining agreement that contains at least the following elements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[EFFECTIVE DATE.] This section is effective for fiscal year 2006 and thereafter.

Sec. 36. [122A.4143] [CLOSED CONTRACT.]

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

Sec. 37. [122A.628] [SCHOOLS MENTORING SCHOOLS REGIONAL SITES.]

The commissioner of education shall select up to four school districts, or partnerships of school districts, for the purpose of assisting other school districts in the region with the development of thorough and effective teacher mentoring programs. The commissioner shall use geographic balance and proven teacher induction programs as criteria when selecting the sites. One site must include the Brainerd teacher support system, which has been cited by the Minnesota Board of Teaching as a model program and was one of only six programs in the nation to be recognized for the 2004 NEA-Saturn/UAW partnership award. The sites shall be known as schools mentoring schools regional sites.

The sites shall provide high quality mentoring assistance programs and services to other nearby school districts for the development of effective systems of support for new teachers. The sites shall offer coaching/mentor training, in-class observation training, and train-the-teacher opportunities for teams of participating teachers. The sites shall use their recognized experience and methods to equip schools to work with their own new and beginning teachers. The commissioner shall review and report annually to the legislature on the operation of each training center.

Sec. 38. Minnesota Statutes 2004, section 123B.02, is amended by adding a subdivision to read:

Subd. 14a. [EMPLOYEE RECOGNITION.] A school board may establish and operate an employee recognition program for district employees, including teachers, and may expend funds as necessary to achieve the objectives of the program.

Sec. 39. Minnesota Statutes 2004, section 123B.02, is amended by adding a subdivision to read:

Subd. 22. [REWARDS.] A school board may offer a reward to persons who provide accurate and reliable information that leads to the apprehension and arrest of a person who has committed a

crime against school district property, students, employees or volunteers, or school board members.

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

Sec. 40. Minnesota Statutes 2004, section 124D.09, subdivision 12, is amended to read:

Subd. 12. [CREDITS.] A pupil may enroll in a course under this section for either secondary credit or postsecondary credit. At the time a pupil enrolls in a course, the pupil shall designate whether the course is for secondary or postsecondary credit. A pupil taking several courses may designate some for secondary credit and some for postsecondary credit. A pupil must not audit a course under this section.

A district shall grant academic credit to a pupil enrolled in a course for secondary credit if the pupil successfully completes the course. Seven quarter or four semester college credits equal at least one full year of high school credit. Fewer college credits may be prorated. A district must also grant academic credit to a pupil enrolled in a course for postsecondary credit if secondary credit is requested by a pupil. If no comparable course is offered by the district, the district must, as soon as possible, notify the commissioner, who shall determine the number of credits that shall be granted to a pupil who successfully completes a course. If a comparable course is offered by the district, the school board shall grant a comparable number of credits to the pupil. If there is a dispute between the district and the pupil regarding the number of credits granted for a particular course, the pupil may appeal the board's decision to the commissioner. The commissioner's decision regarding the number of credits shall be final.

The secondary credits granted to a pupil must be counted toward the graduation requirements and subject area requirements of the district. Evidence of successful completion of each course and secondary credits granted must be included in the pupil's secondary school record. A pupil shall provide the school with a copy of the pupil's grade in each course taken for secondary credit under this section. Upon the request of a pupil, the pupil's secondary school record must also include evidence of successful completion and credits granted for a course taken for postsecondary credit. In either case, the record must indicate that the credits were earned at a postsecondary institution.

If a pupil enrolls in a postsecondary institution after leaving secondary school, the postsecondary institution must award postsecondary credit for any course successfully completed for secondary credit at that institution. Other postsecondary institutions may award, after a pupil leaves secondary school, postsecondary credit for any courses successfully completed under this section. An institution may not charge a pupil for the award of credit.

The Board of Trustees of the Minnesota State Colleges and Universities and the Board of Regents of the University of Minnesota must, and private nonprofit and proprietary postsecondary institutions should award postsecondary credit for any successfully completed courses in a program certified by the National Alliance of Concurrent Enrollment Partnership offered according to an agreement under section 124D.09, subdivision 10.

Sec. 41. [124D.091] [CONCURRENT ENROLLMENT PROGRAM AID.]

Subdivision 1. [ELIGIBILITY.] A district that offers a National Alliance of Concurrent Enrollment Partnership certified program according to an agreement under section 124D.09, subdivision 10, is eligible to receive aid to support the costs associated with providing postsecondary courses at the high school.

Subd. 2. [AID.] An eligible district shall receive $150 per pupil enrolled in a course that is part of a program certified by the National Alliance of Concurrent Enrollment Partnership. The money must be used to defray the cost of delivering the course at the high school. The commissioner shall establish application procedures and deadlines for receipt of aid payments.

Sec. 42. Minnesota Statutes 2004, section 124D.10, subdivision 3, is amended to read:

Subd. 3. [SPONSOR.] (a) A school board; intermediate school district school board; education

district organized under sections 123A.15 to 123A.19; charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986 that is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations, registered with the attorney general's office, and reports an end-of-year fund balance of at least $2,000,000; Minnesota private college that grants two- or four-year degrees and is registered with the Higher Education Services Office under chapter 136A; community college, state university, or technical college, governed by the Board of Trustees of the Minnesota State Colleges and Universities; the Board of the Perpich Center for Arts Education under chapter 129C; or the University of Minnesota may sponsor one or more charter schools.

(b) A nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may sponsor one or more charter schools if the charter school has operated for at least three years under a different sponsor and if the nonprofit corporation has existed for at least 25 years.

Sec. 43. Minnesota Statutes 2004, section 124D.11, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue for each adjusted marginal cost pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, extended time revenue, transition revenue, and transportation sparsity revenue, plus basic skills revenue, extended time revenue, and transition revenue as though the school were a school district. The general education revenue for each extended time marginal cost pupil unit equals $4,378.

(b) Notwithstanding paragraph (a), for charter schools in the first year of operation, general education revenue shall be computed using the number of adjusted pupil units in the current fiscal year.

Sec. 44. Minnesota Statutes 2004, section 124D.11, subdivision 6, is amended to read:

Subd. 6. [OTHER AID, GRANTS, REVENUE.] (a) A charter school is eligible to receive other aids, grants, and revenue according to chapters 120A to 129C, as though it were a district.

(b) Notwithstanding paragraph (a), a charter school may not receive aid, a grant, or revenue if a levy is required to obtain the money, or if the aid, grant, or revenue is a replacement of levy revenue, except as otherwise provided in this section.

(c) Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.

(d) A charter school may receive money from any source for capital facilities needs. In the year-end report to the commissioner of education, the charter school shall report the total amount of funds received from grants and other outside sources.

Sec. 45. Minnesota Statutes 2004, section 124D.66, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE SERVICES.] (a) Assurance of mastery programs may provide direct instructional services to an eligible pupil, or a group of eligible pupils, under the following conditions in paragraphs (b) to (d).

(b) Instruction may be provided at one or more grade levels from kindergarten to grade 8 and for students in grades 9 through 12 who were enrolled in grade 8 before the 2005-2006 school year and have failed the basic skills tests, or were enrolled in grade 8 in the 2005-2006 school year and later and who have failed the Minnesota Comprehensive Assessments (MCA-IIs) in reading, mathematics, or writing as required for high school graduation under section 120B.02. If an assessment of pupils' needs within a district demonstrates that the eligible pupils in grades kindergarten to grade 8 are being appropriately served, a district may serve eligible pupils in grades 9 to 12.

(c) Instruction must be provided under the supervision of the eligible pupil's regular classroom teacher. Instruction may be provided by the eligible pupil's classroom teacher, by another teacher, by a team of teachers, or by an education assistant or aide. A special education teacher may provide instruction, but instruction that is provided under this section is not eligible for aid under section 125A.76.

(d) The instruction that is provided must differ from the initial instruction the pupil received in the regular classroom setting. The instruction may differ by presenting different curriculum than was initially presented in the regular classroom or by presenting the same curriculum:

(1) at a different rate or in a different sequence than it was initially presented;

(2) using different teaching methods or techniques than were used initially; or

(3) using different instructional materials than were used initially.

Sec. 46. Minnesota Statutes 2004, section 124D.74, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM DESCRIBED.] American Indian education programs are programs in public elementary and secondary schools, nonsectarian nonpublic, community, tribal, charter, or alternative schools enrolling American Indian children designed to:

(1) support postsecondary preparation for pupils;

(2) support the academic achievement of American Indian students with identified focus to improve reading and mathematic skills;

(3) make the curriculum more relevant to the needs, interests, and cultural heritage of American Indian pupils;

(4) provide positive reinforcement of the self-image of American Indian pupils;

(5) develop intercultural awareness among pupils, parents, and staff; and

(6) supplement, not supplant, state and federal educational and cocurricular programs.

Program components may include: development of support components for students in the areas of academic achievement, retention, and attendance; development of support components for staff, including in-service training and technical assistance in methods of teaching American Indian pupils; research projects, including experimentation with and evaluation of methods of relating to American Indian pupils; provision of personal and vocational counseling to American Indian pupils; modification of curriculum, instructional methods, and administrative procedures to meet the needs of American Indian pupils; and supplemental instruction in American Indian language, literature, history, and culture. Districts offering programs may make contracts for the provision of program components by establishing cooperative liaisons with tribal programs and American Indian social service agencies. These programs may also be provided as components of early childhood and family education programs.

Sec. 47. Minnesota Statutes 2004, section 124D.81, subdivision 1, is amended to read:

Subdivision 1. [GRANTS; PROCEDURES.] Each fiscal year the commissioner of education must make grants to no fewer than six American Indian education programs. At least three programs must be in urban areas and at least three must be on or near reservations. The board of a local district, a participating school or a group of boards may develop a proposal for grants in support of American Indian education programs. Proposals may provide for contracts for the provision of program components by nonsectarian nonpublic, community, tribal, charter, or alternative schools. The commissioner shall prescribe the form and manner of application for grants, and no grant shall be made for a proposal not complying with the requirements of sections 124D.71 to 124D.82. ~~The commissioner must submit all proposals to the state Advisory Committee on American Indian Education Programs for its recommendations concerning approval, modification, or disapproval and the amounts of grants to approved programs.~~

Sec. 48. Minnesota Statutes 2004, section 124D.84, subdivision 1, is amended to read:

Subdivision 1. [AWARDS.] The commissioner~~, with the advice and counsel of the Minnesota Indian Education Committee,~~ may award scholarships to any Minnesota resident student who is of one-fourth or more Indian ancestry, who has applied for other existing state and federal scholarship and grant programs, and who, in the opinion of the commissioner, has the capabilities to benefit from further education. Scholarships must be for accredited degree programs in accredited Minnesota colleges or universities or for courses in accredited Minnesota business, technical, or vocational schools. Scholarships may also be given to students attending Minnesota colleges that are in candidacy status for obtaining full accreditation, and are eligible for and receiving federal financial aid programs. Students are also eligible for scholarships when enrolled as students in Minnesota higher education institutions that have joint programs with other accredited higher education institutions. Scholarships shall be used to defray the total cost of education including tuition, incidental fees, books, supplies, transportation, other related school costs and the cost of board and room and shall be paid directly to the college or school concerned where the student receives federal financial aid. The total cost of education includes all tuition and fees for each student enrolling in a public institution and the portion of tuition and fees for each student enrolling in a private institution that does not exceed the tuition and fees at a comparable public institution. Each student shall be awarded a scholarship based on the total cost of the student's education and a federal standardized need analysis. Applicants are encouraged to apply for all other sources of financial aid. ~~The amount and type of each scholarship shall be determined through the advice and counsel of the Minnesota Indian education committee.~~

When an Indian student satisfactorily completes the work required by a certain college or school in a school year the student is eligible for additional scholarships, if additional training is necessary to reach the student's educational and vocational objective. Scholarships may not be given to any Indian student for more than five years of study ~~without special recommendation of the Minnesota Indian Education Committee~~.

Sec. 49. Minnesota Statutes 2004, section 126C.10, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] (a) For fiscal year 2003, the general education revenue for each district equals the sum of the district's basic revenue, basic skills revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, and equity revenue.

(b) For fiscal year 2004 and later, the general education revenue for each district equals the sum of the district's basic revenue, extended time revenue, basic skills revenue, gifted and talented revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, equity revenue, and transition revenue.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006 and later.

Sec. 50. Minnesota Statutes 2004, section 126C.10, is amended by adding a subdivision to read:

Subd. 2b. [GIFTED AND TALENTED REVENUE.] Gifted and talented revenue for each district equals $10 times the district's adjusted marginal cost pupil units. A school district must reserve gifted and talented revenue and, consistent with section 120B.15, must spend the revenue only to:

(1) identify gifted and talented students;

(2) provide education programs for gifted and talented students; or

(3) provide staff development to prepare teachers to best meet the unique needs of gifted and talented students.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006 and later.

Sec. 51. [127A.095] [IMPLEMENTATION OF NO CHILD LEFT BEHIND ACT.]

Subdivision 1. [CONTINUED IMPLEMENTATION.] The Department of Education shall continue to implement the federal No Child Left Behind Act, Public Law 107-110, without interruption until June 30, 2006.

Subd. 2. [NO CHILD LEFT BEHIND NULLIFICATION.] (a) The consolidated state plan submitted by the state to the federal Department of Education on implementing the No Child Left Behind Act, Public Law 107-110, and any other Minnesota state contract or agreement under the provisions of the No Child Left Behind Act, shall be nullified and revoked by the commissioner of education on July 1, 2006.

(b) The commissioner shall report to the education funding divisions and the education policy committees of the house of representatives and the senate by April 1, 2006, whether the following conditions have been met:

(1) the Department of Education has received approval from the federal Department of Education to allow the state to develop a plan using multiple measures including value-added measurement of student achievement in addition to relying on standardized test results to evaluate school and student performance for the purpose of determining adequate yearly progress;

(2) the Department of Education has received approval from the federal Department of Education to allow the state to average three years of data for the purposes of identifying a school for improvement;

(3) the Department of Education has developed a plan and model legislation to ensure that if an adequate yearly progress determination was made in error, that the error will not adversely affect the school's or school district's sanction status in subsequent years. The Department of Education must have a policy in place to correct errors to accountability reports;

(4) the Department of Education has reported the additional costs for state fiscal years 2006 to 2009 that the No Child Left Behind Act imposes on the state, the state's school districts, and charter schools that are in excess of costs associated with the Improving America's Schools Act of 1994, Public Law 103-382;

(5) the Department of Education has received approval from the federal Department of Education to allow the state to use No Child Left Behind money to provide supplemental education services only in the academic subject area that causes a school to miss adequate yearly progress;

(6) the Department of Education has received approval from the federal Department of Education to exclude from sanctions schools that have not made adequate yearly progress solely due to a subgroup of students with disabilities not testing at a proficient level;

(7) the Department of Education has received approval from the federal Department of Education to exclude from sanctions a school that is classified as not having made adequate yearly progress solely due to different subgroups testing below proficient levels for at least two consecutive years;

(8) the Department of Education has received approval from the federal Department of Education to identify a school as not making adequate yearly progress only after missing the adequate yearly progress targets in the same subject and subgroup for two consecutive years;

(9) the Department of Education has received approval from the federal Department of Education to identify a district as in need of improvement only after missing the adequate yearly progress target in the same subject across multiple grade spans for two consecutive years;

(10) the Department of Education has received approval from the federal Department of Education to limit the score of a student within multiple subgroups to the one subgroup that is the smallest subgroup in which that student is a part of when calculating adequate yearly progress;

(11) the Department of Education has implemented a uniform financial reporting system for school districts to report costs related to implementing No Child Left Behind Act requirements, including the costs of complying with sanctions;

(12) the Department of Education has received approval from the federal Department of Education to determine the percentage of the special education students that would be best educated based on out-of-level standards and tested accordingly based on an individual education plan; and

(13) the Department of Education has received approval from the federal Department of Education to determine when to hold schools accountable for including a student with limited English proficiency in adequate yearly progress calculations.

(c) The state's continued implementation of the No Child Left Behind Act shall be discontinued effective July 1, 2006, unless the legislature passes a law during the 2006 regular legislative session establishing the legislature's satisfaction that the requirements under paragraph (b) have been met.

Subd. 3. [DEPARTMENT OF FINANCE CERTIFICATION.] If the legislature does not pass a law authorizing continued implementation of the No Child Left Behind Act under subdivision 2, paragraph (c), the commissioner of finance shall certify and report to the legislature beginning January 1, 2007, and each year thereafter the amount of federal revenue, if any, that has been withheld by the federal government as a result of the state's discontinued implementation of the No Child Left Behind Act. The report shall also specify the intended purpose of the federal revenue and the amount of revenue withheld from the state, each school district, and each charter school in each fiscal year.

Subd. 4. [ANNUAL CONTINGENT APPROPRIATION.] For fiscal year 2007 and thereafter, an amount equal to the federal revenue withheld in the same fiscal year as a result of the state's discontinued implementation of the No Child Left Behind Act, as certified by the commissioner of finance under subdivision 3, is appropriated from the general fund to the commissioner of education. The commissioner of education shall allocate the appropriation under this section according to the report from the commissioner of finance in subdivision 3.

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

Sec. 52. [129C.105] [BOARD MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS.]

(a) Notwithstanding section 13D.01 and if complying with section 13D.02 is impractical, the board for the Perpich Center for Arts Education may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear all discussion and testimony and all votes of members of the board;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented marginal costs that the board incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some

members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

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

Sec. 53. Minnesota Statutes 2004, section 179A.03, subdivision 14, is amended to read:

Subd. 14. [PUBLIC EMPLOYEE OR EMPLOYEE.] "Public employee" or "employee" means any person appointed or employed by a public employer except:

(a) elected public officials;

(b) election officers;

(c) commissioned or enlisted personnel of the Minnesota National Guard;

(d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;

(f) employees whose positions are basically temporary or seasonal in character and: (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;

(g) employees providing services for not more than two consecutive quarters to the Board of Trustees of the Minnesota State Colleges and Universities under the terms of a professional or technical services contract as defined in section 16C.08, subdivision 1;

(h) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;

(j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;

(k) an individual hired by the Board of Trustees of the Minnesota State Colleges and Universities to teach one course for three or fewer credits for one semester in a year;

(l) with respect to court employees:

(1) personal secretaries to judges;

(2) law clerks;

(3) managerial employees;

(4) confidential employees; and

(5) supervisory employees.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

(i) an employee hired by a school district or the Board of Trustees of the Minnesota State Colleges and Universities except at the university established in section 136F.13 or for community services or community education instruction offered on a noncredit basis: (A) to replace an absent

teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (B) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons; ~~and~~

(ii) an employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position; and

(iii) an early childhood family education teacher employed by a school district.

[EFFECTIVE DATE.] This section is effective July 1, 2005.

Sec. 54. Minnesota Statutes 2004, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITIONS.] (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, he must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in his home;

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the responsible social services agency. In placing a child whose custody has been transferred under this paragraph, the agencies shall make an individualized determination of how the placement is in the child's best interests using the consideration for relatives and the best interest factors in section 260C.212, subdivision 2, paragraph (b); or

(3) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a physical or mental disability, the court may order the child's parent, guardian, or custodian to provide it. The court may order the child's health plan company to provide mental health services to the child. Section 62Q.535 applies to an order for mental health services directed to the child's health plan company. If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to $100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child ~~and~~ or of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

Sec. 55. [CONCURRENT ENROLLMENT MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.]

Subdivision 1. [GRANTS.] The commissioner of education shall award grants to partnerships between one or more postsecondary institutions and one or more school districts to expand mathematics and science courses offered in the high school and enhance staff development. The courses must be offered at the high school under an agreement between the governing board of an eligible public postsecondary system or an eligible private institution and a public school board, as described in Minnesota Statutes, section 124D.09, subdivision 10. Each partnership must include at least one postsecondary institution and one school district. The grants must be awarded to collaborative efforts that:

(1) increase the number of postsecondary-level mathematics and science courses provided to high school students at the student's high school; and

(2) develop or enhance the staff training and ongoing support services provided by postsecondary faculty to high school teachers teaching college in the school's agreement courses in the high school.

Subd. 2. [ACCREDITATION.] To establish a uniform standard by which courses and professional development activities may be measured, postsecondary institutions applying for a grant under this section are encouraged to apply for accreditation by the National Alliance of Concurrent Enrollment Partnerships.

Subd. 3. [APPLICATION PROCESS.] The commissioner of education shall develop the process by which a partnership must apply for a grant. The P-16 Education Partnership shall review and comment on the grant applications and make recommendations to the commissioner regarding the partnerships that should be funded. In selecting projects for funding, the commissioner must ensure that there is a balance in the number of mathematics and science courses offered as part of this initiative.

Subd. 4. [CRITERIA.] The application for grant money under this section must include, at a minimum, the following information:

(1) specification of the goals to be achieved through the delivery of courses and faculty staff development and support activities;

(2) a description of the courses to be offered at the high schools and the initial and ongoing training and support that will be provided to high school faculty teaching courses under this program;

(3) a description of the eligibility requirements for students participating in the program and the number of students that will be served;

(4) a description of the curriculum enhancements and efficiencies to be achieved in the delivery of instruction through the partnership;

(5) a description of how the goals established for the course delivery and faculty staff development and support activities will be evaluated to determine if the goals of the partnership were met; and

(6) other information as identified by the commissioner.

Sec. 56. [COLLEGE PREPARATION STANDARDS.]

(a) The Higher Education Advisory Council must convene a working group to develop standards describing the skills and knowledge a high school graduate must have at entry into postsecondary education in order to successfully graduate from college. The standards must, to the extent possible, be applicable for all postsecondary education but may describe differences in the skills and knowledge necessary for success in different higher education institutions and programs. The standards need not be comprehensive but must, at a minimum, be the essential skills and knowledge that will enable a student to succeed in college. The Higher Education Services Office must provide staff for the working group.

(b) The Higher Education Advisory Council must submit the standards to the commissioner of education no later than January 15, 2006. No later than March 15, 2006, the commissioner of education must report, to the chairs of the legislative committees with jurisdiction over kindergarten through grade 12 education policy and finance and higher education policy and finance, its recommendations regarding the changes, if any, that must be made in Minnesota's academic standards in order to ensure that Minnesota high school graduates meet the college readiness standards established by the Higher Education Advisory Council.

(c) The Higher Education Advisory Council must invite the University of Minnesota, Minnesota State Colleges and Universities, representatives of private colleges, and other private postsecondary institutions, to participate in the working group and may invite other individuals or entities to participate. The Higher Education Advisory Council and its working group may collaborate with the Minnesota P-16 Education Partnership in developing the college readiness standards.

Sec. 57. [MINNESOTA COMPREHENSIVE ASSESSMENTS; RULES.]

The commissioner of education shall adopt rules on or before January 1, 2005, to implement the Minnesota Comprehensive Assessments Second Edition (MCA-IIs) in reading, mathematics, and writing. For purposes of state and local high school graduation requirements, the rules must include criteria enabling school districts to:

(1) appropriately accommodate a student who fails but seeks to pass the Minnesota Comprehensive Assessments Second Edition; and

(2) exempt a disabled student, consistent with the student's individualized education plan, or an English language learner from the Minnesota Comprehensive Assessments Second Edition or administer an alternative assessment either to a disabled student, consistent with the student's individualized education plan, or to an English language learner.

Sec. 58. [HEALTH AND PHYSICAL EDUCATION MODEL BENCHMARKS.]

By July 1, 2006, the commissioner of education must transmit to school districts model kindergarten through grade 12 health and physical education benchmarks developed by the department's health and physical education quality teaching network.

Sec. 59. [RULES FOR SUPPLEMENTAL SERVICE PROVIDERS.]

The commissioner of education must amend Minnesota Rules, part 3512.5400, relating to supplemental service providers to include outcome standards. The commissioner must include in the amended rules criteria to remove an education service provider from the listing of approved service providers if they fail to meet the outcome standards.

Sec. 60. [EVALUATING THE EDUCATIONAL IMPACT OF FEDERAL AND STATE TESTS ON KINDERGARTEN THROUGH GRADE 12 STUDENTS.]

(a) The Office of Educational Accountability under Minnesota Statutes, section 120B.31, subdivision 3, must evaluate the educational impact of the federal No Child Left Behind Act and other state and federal laws requiring school districts to administer tests to kindergarten through grade 12 students. The evaluation at least must address:

(1) potential educational costs to kindergarten through grade 12 public school students through the 2013-2014 school year of complying with testing requirements;

(2) educational factors that may increase or decrease the educational costs identified under clause (1);

(3) the impact of testing requirements on the statewide accountability system, teacher training and employment, and curriculum development; and

(4) the relationship between the testing requirements, postsecondary entrance requirements and the expectations of the business community regarding the educational preparation of new high school graduates seeking employment.

The Office of Educational Accountability, at its discretion, may include additional areas for evaluation.

(b) In preparing this evaluation, the Office of Educational Accountability must select a sample of school districts to explore in depth the areas listed in paragraph (a). The school districts must be of varying sizes and geographical locations, and must include some districts with schools designated by the state Department of Education as "needing improvement" under the No Child Left Behind Act. The Office of Educational Accountability must contact school officials, employees of postsecondary institutions, and representatives of business communities from throughout the state to collect information and perceptions related to the evaluation. State and local entities must cooperate with and assist the Office of Educational Accountability with this evaluation at the request of the Office of Educational Accountability.

(c) The Office of Educational Accountability must submit the evaluation in writing to the chairs of the legislative committees in the house and senate charged with oversight of kindergarten through grade 12 education policy and finance by February 15, 2006.

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

Sec. 61. [MODEL POLICY; INTIMIDATION AND BULLYING.]

The commissioner of education shall work with the Minnesota School Boards Association to develop a model policy that prohibits intimidating and bullying as required in Minnesota Statutes, section 121A.0695, subdivision 2.

Sec. 62. [LICENSED STUDENT SUPPORT SERVICES.]

Subdivision 1. [ACCESS TO SERVICES.] School districts and the Department of Education shall work to provide for students' educational achievement, to provide for student safety, and to enhance student physical, emotional, and social well-being by providing access to licensed student support services, such as licensed school nurses, licensed school counselors, licensed school social workers, and licensed school psychologists.

Subd. 2. [FUNDING.] Districts and the department shall explore opportunities for obtaining additional funds to improve students' access to needed licensed student support services including, but not limited to, medical assistance reimbursements, local collaborative time study funds, federal funds, public health funds, and specifically designated funds.

Subd. 3. [IMPROVING ACCESS.] Districts and the department must consider nationally recommended licensed staff-to-student ratios, work loads, and best practices when working to improve student access to needed licensed student support services.

Sec. 63. [BOARD OF TEACHING REPORT.]

By January 16, 2006, the Board of Teaching, in consultation with the Department of Education and other education stakeholders, must prepare and submit to the education committees of the legislature proposed licensure requirements for teachers of interdisciplinary curriculum to facilitate learning in state-approved innovative schools and programs.

Sec. 64. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. [CONCURRENT ENROLLMENT PROGRAM AID.] For concurrent enrollment program aid:

$.,...,... 2006

$.,...,... 2007

Subd. 3. [CONCURRENT ENROLLMENT MATHEMATICS AND SCIENCE PARTNERSHIP.] For concurrent enrollment mathematics and science partnership program grants:

$.,...,... 2006

$.,...,... 2007

Subd. 4. [NATIONAL ALLIANCE OF CONCURRENT ENROLLMENT PARTNERSHIP; UNIVERSITY OF MINNESOTA.] For transfer to the Board of Regents of the University of Minnesota for institutions receiving partnership grants to become provisional members of the National Alliance of Concurrent Enrollment Partnership:

$.,...,... 2006

$.,...,... 2007

Subd. 5. [NATIONAL ALLIANCE OF CONCURRENT ENROLLMENT PARTNERSHIP; MNSCU.] For transfer to the Board of Trustees of the Minnesota State Colleges and Universities for institutions receiving partnership grants to become provisional members of the National Alliance of Concurrent Enrollment Partnership:

$.,...,... 2006

$.,...,... 2007

Subd. 6. [SCHOOLS MENTORING SCHOOLS REGIONAL SITES.] For schools mentoring schools regional sites:

$.,...,... 2006

$.,...,... 2007

Any balance remaining in the first year does not cancel but is available in the second year.

Subd. 7. [PRINCIPLED PRACTICES AID.] For principled pay practices aid:

$.,...,... 2006

$.,...,... 2007

Sec. 65. [REPEALER.]

Minnesota Statutes 2004, sections 121A.23, 122A.414, and 122A.415, are repealed.

ARTICLE 2

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2004, section 121A.66, subdivision 5, is amended to read:

Subd. 5. [EMERGENCY.] "Emergency" means a situation in which immediate intervention is necessary to protect a pupil or other individual from physical injury or to prevent serious property damage.

Sec. 2. Minnesota Statutes 2004, section 121A.66, is amended by adding a subdivision to read:

Subd. 6. [POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS.] "Positive behavioral interventions and supports" means those strategies used to improve the school environment and teach pupils skills likely to increase their ability to exhibit appropriate behaviors.

Sec. 3. Minnesota Statutes 2004, section 121A.66, is amended by adding a subdivision to read:

Subd. 7. [TIME-OUT.] "Time-out" means:

(1) a contingent observation, which is not a regulated intervention, and involves instructing the pupil to leave the school activity during the school day and not participate for a period of time, but to observe the activity and listen to the discussion from a time-out area within the same setting;

(2) an exclusionary time-out, which is not a regulated intervention, and involves instructing the pupil to leave the school activity during the school day and not participate in or observe the classroom activity, but to go to another area from which the pupil may leave; or

(3) a locked time-out, which is a regulated intervention, and involves involuntarily removing the pupil from the school activity during the school day and placing the pupil in a specially designed and continuously supervised isolation room that the pupil is prevented from leaving.

Sec. 4. Minnesota Statutes 2004, section 121A.67, is amended to read:

121A.67 [AVERSIVE AND DEPRIVATION PROCEDURES.]

Subdivision 1. [RULES.] The commissioner, after consultation with interested parent organizations and advocacy groups, the Minnesota Administrators for Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, a representative of a bargaining unit that represents paraprofessionals, and the Elementary School Principals Association and the Secondary School Principals Association, must ~~adopt~~ amend rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

(1) promote the use of positive ~~approaches~~ behavioral interventions and supports and must not encourage or require the use of aversive or deprivation procedures;

(2) require that planned application of aversive and deprivation procedures only be ~~a part of an~~ instituted after completing a functional behavior assessment and developing a behavior intervention plan that is included in or maintained with the individual education plan;

(3) require ~~parents or guardians to be notified after the use of~~ educational personnel to notify a parent or guardian of a pupil with an individual education plan on the same day aversive or deprivation procedures are used in an emergency or in writing within two school days if district personnel are unable to provide same-day notice;

(4) establish health and safety standards for the use of locked time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, ~~and~~ adequate space, a locking mechanism that disengages automatically when not continuously engaged by school personnel, and full compliance with state and local fire and building codes, including state rules on time-out rooms; ~~and~~

(5) contain a list of prohibited procedures;

(6) consolidate and clarify provisions related to behavior intervention plans;

(7) require school districts to register with the commissioner any room used for locked time-out, which the commissioner must monitor by making announced and unannounced on-site visits;

(8) place a student in locked time-out only if the intervention is:

(i) part of the comprehensive behavior intervention plan that is included in or maintained with the student's individual education plan, and the plan uses positive behavioral interventions and supports, and data support its continued use; or

(ii) used in an emergency for the duration of the emergency only; and

(9) require a providing school district or cooperative to establish an oversight committee composed of at least one member with training in behavioral analysis and other appropriate education personnel to annually review aggregate data regarding the use of aversive and deprivation procedures.

Subd. 2. [REMOVAL BY PEACE OFFICER.] If a pupil who has an individual education plan is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period, the pupil's individual education program team must meet to determine if the pupil's individual education plan is adequate or if additional evaluation is needed.

[EFFECTIVE DATE.] Subdivision 1 of this section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2004, section 122A.15, is amended by adding a subdivision to read:

Subd. 3. [STUDENT SUPPORT SERVICES ADVISORY COMMITTEE; DISTRICT PLAN.] (a) A student support services advisory committee composed of ten members selected by the commissioner is established under section 15.059. The commissioner must select one committee member from each of the following organizations:

(1) the Minnesota Department of Education;

(2) the Minnesota School Boards Association;

(3) the Minnesota Association of School Administrators;

(4) the Minnesota School Social Work Association;

(5) the School Nurse Organization of Minnesota;

(6) the Minnesota School Psychologists Association;

(7) the Minnesota School Counselors Association;

(8) the Minnesota Association of Resources for Recovery and Chemical Health;

(9) the Minnesota Administrators for Special Education; and

(10) the Minnesota Parent Teachers Association.

(b) The committee must:

(1) establish a method for identifying student needs that are barriers to learning;

(2) identify alternatives for integrating student support services into public schools;

(3) recommend support staff to student ratios and best practices for providing student support services premised on evidence-based practice;

(4) identify the substance and extent of the work that student support services staff are trained and licensed to provide and the characteristics of the student populations they serve;

(5) recommend how school districts can most appropriately integrate student support services into the education program; and

(6) recommend public and nonpublic revenue sources that school districts can use to fund student support services including, among other sources, medical assistance reimbursements, private health insurance, local collaborative time study funds, federal funds, public health funds, and specifically designated funds such as school safety levies and district general funds, among other funds.

(c) The committee must consider the oral and written testimony of school district personnel and parents and students in complying with paragraph (b). The committee must submit periodic recommendations about student support services to the commissioner and to the committees of the legislature having jurisdiction over birth to age 21 education policy and budget issues. The commissioner must consider the committee's recommendations in deciding whether to develop and maintain a model district plan for student support services. If the commissioner develops and maintains a model plan, the commissioner also must decide whether to transmit the plan to school districts, whether to require the districts to adopt and maintain a district plan for providing student support services that meets the criteria recommended by the advisory committee, and whether to require the districts to submit the plan for biennial review.

(d) Notwithstanding section 15.059, subdivision 5, the committee expires on June 30, 2016.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to the 2006-2007 school year and later.

Sec. 6. [123A.10] [EDUCATION ADMINISTRATIVE DISTRICTS.]

Subdivision 1. [PURPOSE.] The purpose of an education administrative district is to increase the efficiency of administrative services for elementary and secondary education by combining administrative functions for multiple school districts, while maintaining independent school district control of individual student attendance sites.

Subd. 2. [AGREEMENT TO ESTABLISH AN EDUCATION ADMINISTRATIVE DISTRICT.] Boards meeting the requirements of subdivision 3 may enter into a written agreement to establish an education administrative district. The agreement must address methods to improve the efficiency of delivering administrative services. The agreement and subsequent amendments must be adopted by majority vote of the full membership of each board.

Subd. 3. [REQUIREMENTS FOR FORMATION.] (a) An education administrative district must have at least three districts at the time of formation.

(b) Prior to entering into an agreement, each individual school district must submit the proposed agreement to the exclusive representatives of the employees impacted by the agreement in their school district. The exclusive representative must sign off on the proposed agreement before it is submitted to the commissioner for review to ensure the rights of the bargaining unit members. Two or more employee organizations that represent the employees in a unit may petition jointly under this subdivision provided that any organization may withdraw from joint certification in favor of the remaining organizations on 30 days' notice to the remaining organizations, the employer, and the commissioner without affecting the rights and obligations of the remaining organizations. The terms and conditions of collective bargaining agreements covering school employee bargaining units remain in effect until a successor agreement becomes effective.

(c) If a proposed agreement results in contracting out of public services previously provided by district employees, school district employees shall have the right of first refusal for equivalent positions and shall maintain equivalent wages, benefits, and hours of employment.

Subd. 4. [COMMISSIONER REVIEW AND COMMENT.] Before entering into an agreement, the school boards of the proposed member districts must jointly submit the proposed agreement with agreement by the exclusive representative, to the commissioner for review and comment. The commissioner shall submit a review and comment on the educational and economic advisability of

the proposed agreement to the school boards within 60 days of receiving the proposal. If the commissioner submits a negative review and comment, the districts do not qualify for levy authority according to section 123A.12, subdivision 5.

Subd. 5. [NOTICE AND PUBLIC HEARING ON PROPOSED AGREEMENT.] Before entering into an agreement, the board of each member district must publish the commissioner's review and comment and a summary of the proposed agreement and its effect upon the district at least once in a newspaper of general circulation in the district. The board must conduct a public hearing on the proposed agreement after the publication of the notice and before entering into an agreement.

Sec. 7. [123A.11] [EDUCATION ADMINISTRATIVE DISTRICT BOARD.]

Subdivision 1. [SCHOOL DISTRICT REPRESENTATION.] The education administrative district board shall be composed of at least one representative appointed by the school board of each member district. Each representative must be a member of the appointing school board. Each representative shall serve at the pleasure of the appointing board and may be recalled by a majority vote of the appointing board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt bylaws for the conduct of its business. The board may conduct public meetings via interactive television if the board complies with chapter 13D in each location where board members are present.

Subd. 2. [PROVISION OF ADMINISTRATIVE SERVICES.] An education administrative district board shall implement the agreement for delivering administrative services, defined in section 123A.12, needed in the education administrative district.

Subd. 3. [PERSONNEL.] The board may employ personnel as necessary to provide administrative services for the education administrative district. Education administrative district staff shall participate in retirement programs. Notwithstanding section 123B.143, subdivision 1, a member district of an education administrative district must contract with the education administrative district to obtain the services of a superintendent. The person to provide the services need not be employed by the education administrative district or a member district at the time the contract is entered into.

Subd. 4. [CONTRACTS.] The board may enter into contracts with districts and other public and private agencies to provide administrative services needed in the education administrative district.

Subd. 5. [GENERAL LAW.] The board shall be governed, unless specifically provided otherwise, by section 471.59.

Subd. 6. [ANNUAL REPORT.] After each of its first five years of operation, the board shall submit an annual report to the member districts and the commissioner regarding the activities of the education administrative district, including analysis of the impact of the arrangement on administrative costs and efficiency.

Sec. 8. [123A.12] [EDUCATION ADMINISTRATIVE DISTRICT AGREEMENT.]

Subdivision 1. [IMPLEMENTATION; REVIEW.] An education administrative district board shall implement the agreement for provision of administrative services to the member school districts adopted by the member districts according to section 123A.10, subdivision 2. The education administrative district board shall review the agreement annually and propose necessary amendments to the member districts.

Subd. 2. [ADMINISTRATIVE SERVICES.] (a) The agreement may provide for the selection of one superintendent for the administrative district at a specified time, according to section 123B.143, subdivision 1, by the administrative district board.

(b) The agreement must specify which other noninstructional services are to be provided by the education administrative district. These services may include, but are not limited to, business

management, human resources, payroll, food service, buildings and grounds maintenance, pupil transportation, technology coordination, curriculum coordination, community education, nursing services, student records, district policy, student administrative services, and school building administration.

Subd. 3. [TIMING AND DURATION.] (a) The initial agreement must specify a time schedule for implementation.

(b) The initial agreement must be for a period of at least three years. After completing the first two years, the agreement may be extended by majority vote of the full membership of each board.

Subd. 4. [FINANCES.] The initial agreement must:

(1) include a three-year budget projection comparing existing administrative services and their costs with the proposed services and their costs for each year;

(2) specify what retirement and severance incentives may be offered to licensed and nonlicensed staff, and how these costs will be apportioned among the member districts. The incentives must conform with section 123A.48, subdivision 23;

(3) specify any other start-up costs for the education administrative district and how these costs will be apportioned among the member districts;

(4) specify the estimated amounts that each member district will levy under subdivision 5 for the costs specified in clauses (2) and (3); and

(5) specify an equitable distribution formula for the education administrative district board to assess and certify to each member school district its proportionate share of expenses. Each member district must remit its assessment to the education administrative district board within 30 days after receipt.

Subd. 5. [LEVY.] A school district that is a member of an education administrative district may levy an amount equal to the district's share of costs approved by the commissioner for retirement and severance incentives and other start-up costs included in the initial agreement under subdivision 4, clauses (2) and (3), over a period of time not to exceed three years.

Subd. 6. [REPORTS TO DEPARTMENT OF EDUCATION.] Member districts may submit joint reports and jointly provide information required by the department. The joint reports must allow information, including expenditures for the education administrative district, to be attributed to each member district.

Subd. 7. [ADDITION AND WITHDRAWAL OF DISTRICTS.] (a) Upon approval by majority vote of a district school board and of the education administrative district board, an adjoining district may become a member of the education administrative district and be governed by the provisions of this section and the agreement in effect. A new member added to an existing education administrative district may levy for approved costs of retirement and severance incentives according to subdivision 5.

(b) After its first three years of membership, a district may withdraw from the education administrative district and from the agreement in effect by a majority vote of the full board membership of the member district desiring withdrawal and upon compliance with provisions in the agreement establishing the education administrative district. The withdrawal shall become effective at the end of the next following fiscal year.

Subd. 8. [DISSOLUTION.] After the first three years of the education administrative district, the boards of each member district may agree to dissolve the education administrative district effective at the end of any fiscal year or at an earlier time as they may mutually agree. A dissolution must be accomplished in accordance with any applicable provisions of the agreement establishing the education administrative district. The dissolution must not affect the continuing liability of the previous member districts for continuing obligations, including unemployment benefits.

Sec. 9. Minnesota Statutes 2004, section 123A.24, subdivision 2, is amended to read:

Subd. 2. [COOPERATIVE UNIT DEFINED.] For the purposes of this section, a cooperative unit is:

(1) an education district organized under sections 123A.15 to 123A.19;

(2) a cooperative vocational center organized under section 123A.22;

(3) an intermediate district organized under chapter 136D;

(4) an education administrative district organized under sections 123A.10 to 123A.12;

(5) a service cooperative organized under section 123A.21; or

~~(5)~~ (6) a regional management information center organized under section 123A.23 or as a joint powers district according to section 471.59.

Sec. 10. Minnesota Statutes 2004, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.01, subdivision 6, clause (5), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility or residence is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes; and

(vii) services described in clauses (i) to (vi), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education base revenue under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the

school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

Sec. 11. [124D.4531] [CAREER AND TECHNICAL LEVY.]

Subdivision 1. [CAREER AND TECHNICAL LEVY.] (a) A district with a career and technical program approved under this section for the fiscal year in which the levy is certified may levy an amount equal to the lesser of:

(1) $80 times the district's average daily membership in grades 10 through 12 for the fiscal year in which the levy is certified; or

(2) 25 percent of approved expenditures in the fiscal year in which the levy is certified for the following:

(i) salaries paid to essential, licensed personnel providing direct instructional services to students in that fiscal year for services rendered in the district's approved career and technical education programs;

(ii) contracted services provided by a public or private agency other than a Minnesota school district or cooperative center under subdivision 4;

(iii) necessary travel between instructional sites by licensed career and technical education personnel;

(iv) necessary travel by licensed career and technical education personnel for vocational student organization activities held within the state for instructional purposes;

(v) curriculum development activities that are part of a five-year plan for improvement based on program assessment;

(vi) necessary travel by licensed career and technical education personnel for noncollegiate credit-bearing professional development; and

(vii) specialized vocational instructional supplies.

(b) Up to ten percent of a district's career and technical levy may be spent on equipment purchases. Districts using the career and technical levy for equipment purchases must report to the department on the improved learning opportunities for students that result from the investment in equipment.

(c) The district must recognize the full amount of this levy as revenue for the fiscal year in which it is certified.

Subd. 2. [ALLOCATION FROM COOPERATIVE CENTERS AND INTERMEDIATE DISTRICTS.] For purposes of this section, a cooperative center or an intermediate district must allocate its approved expenditures for career and technical education programs among participating districts.

Subd. 3. [LEVY GUARANTEE.] Notwithstanding subdivision 1, the career and technical education levy for a district is not less than the lesser of:

(1) the district's career and technical education levy authority for the previous fiscal year; or

(2) 100 percent of the approved expenditures for career and technical programs included in subdivision 1, paragraph (b), for the fiscal year in which the levy is certified.

Subd. 4. [DISTRICT REPORTS.] Each district or cooperative center must report data to the department for all career and technical education programs as required by the department to implement the career and technical levy formula.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2008.

Sec. 12. Minnesota Statutes 2004, section 125A.05, is amended to read:

125A.05 [METHOD OF SPECIAL INSTRUCTION.]

(a) As defined in this section, to the extent required by federal law as of July 1, 1999, special instruction and services for children with a disability must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:

(1) in connection with attending regular elementary and secondary school classes;

(2) establishment of special classes;

(3) at the home or bedside of the child;

(4) in other districts;

(5) instruction and services by special education cooperative centers established under this section, or in another member district of the cooperative center to which the resident district of the child with a disability belongs;

(6) in a state residential school or a school department of a state institution approved by the commissioner;

(7) in other states;

(8) by contracting with public, private or voluntary agencies;

(9) for children under age five and their families, programs and services established through collaborative efforts with other agencies;

(10) for children under age five and their families, programs in which children with a disability are served with children without a disability; and

(11) any other method approved by the commissioner.

(b) Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

(c) The primary responsibility for the education of a child with a disability must remain with

the district of the child's residence regardless of which method of providing special instruction and services is used. If a district other than a child's district of residence provides special instruction and services to the child, then the district providing the special instruction and services must notify and invite the child's district of residence before the child's individual education plan is developed and must provide the district of residence an opportunity to participate in the plan's development. The district providing the special instruction and services may not bill special education tuition costs to the resident district unless the resident district has participated or has declined to participate in the development of the student's individual education plan. The district of residence must inform the parents of the child about the methods of instruction that are available.

Sec. 13. Minnesota Statutes 2004, section 125A.24, is amended to read:

125A.24 [PARENT ADVISORY COUNCILS.]

In order to increase the involvement of parents of children with disabilities in district policy making and decision making, school districts must have a special education advisory council that is incorporated into the district's special education system plan.

(1) This advisory council may be established either for individual districts or in cooperation with other districts who are members of the same special education cooperative.

(2) A district may set up this council as a subgroup of an existing board, council, or committee.

(3) At least half of the designated council members must be parents of students with a disability. The council must include at least one member who is a parent of a nonpublic school student with a disability or an employee of a nonpublic school if a nonpublic school is located in the district. Each local council must meet no less than once each year. The number of members, frequency of meetings, and operational procedures are to be locally determined.

Sec. 14. Minnesota Statutes 2004, section 125A.28, is amended to read:

125A.28 [STATE INTERAGENCY COORDINATING COUNCIL.]

An Interagency Coordinating Council of at least 17, but not more than 25 members is established, in compliance with Public Law 102-119, section 682. The members must be appointed by the governor. Council members must elect the council chair. The representative of the commissioner may not serve as the chair. The council must be composed of at least five parents, including persons of color, of children with disabilities under age 12, including at least three parents of a child with a disability under age seven, five representatives of public or private providers of services for children with disabilities under age five, including a special education director, county social service director, local Head Start director, and a community health services or public health nursing administrator, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education or other preparation programs in early childhood intervention, at least one representative of advocacy organizations for children with disabilities under age five, one physician who cares for young children with special health care needs, one representative each from the commissioners of commerce, education, health, human services, a representative from the state agency responsible for child care, and a representative from Indian health services or a tribal council. Section 15.059, subdivisions 2 to 5, apply to the council. The council must meet at least quarterly.

The council must address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for children with disabilities and their families.

The duties of the council include recommending policies to ensure a comprehensive and coordinated system of all state and local agency services for children under age five with disabilities and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

~~By September 1~~ On the date that Minnesota Part C Annual Performance Report is submitted to the federal Office of Special Education, the council must recommend to the governor and the commissioners of education, health, human services, commerce, and employment and economic development policies for a comprehensive and coordinated system.

Notwithstanding any other law to the contrary, the State Interagency Coordinating Council expires on June 30, ~~2005~~ 2009.

Sec. 15. Minnesota Statutes 2004, section 125A.51, is amended to read:

125A.51 [PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION AND TRANSPORTATION.]

The responsibility for providing instruction and transportation for a pupil without a disability who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the commissioner, and who is temporarily placed for care and treatment for that illness or disability, must be determined as provided in this section.

(a) The school district of residence of the pupil is the district in which the pupil's parent or guardian resides.

(b) When parental rights have been terminated by court order, the legal residence of a child placed in a residential or foster facility for care and treatment is the district in which the child resides.

(c) Before the placement of a pupil for care and treatment, the district of residence must be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, must notify the district of residence of the emergency placement within 15 days of the placement.

(d) When a pupil without a disability is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence must provide instruction and necessary transportation to and from the treatment facility for the pupil. Transportation shall only be provided by the district during regular operating hours of the district. The district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district. The district of placement may contract with a facility to provide instruction by teachers licensed by the state Board of Teaching.

(e) When a pupil without a disability is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed must provide instruction for the pupil and necessary transportation while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district must bill the district of residence for the actual cost of providing the instruction for the regular school year and for summer school, excluding transportation costs.

(f) Notwithstanding paragraph (e), if the pupil is homeless and placed in a public or private homeless shelter, then the district that enrolls the pupil under section 127A.47, subdivision 2, shall provide the transportation, unless the district that enrolls the pupil and the district in which the pupil is temporarily placed agree that the district in which the pupil is temporarily placed shall provide transportation. When a pupil without a disability is temporarily placed in a residential program outside the district of residence, the administrator of the court placing the pupil must send timely written notice of the placement to the district of residence. The district of placement may contract with a residential facility to provide instruction by teachers licensed by the state Board of Teaching. For purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

~~(f)~~ (g) The district of residence must include the pupil in its residence count of pupil units and

pay tuition as provided in section 123A.488 to the district providing the instruction. Transportation costs must be paid by the district providing the transportation and the state must pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision must be included in the disabled transportation category if the pupils cannot be transported on a regular school bus route without special accommodations.

Sec. 16. Minnesota Statutes 2004, section 126C.457, is amended to read:

126C.457 [CAREER AND TECHNICAL LEVY.]

For taxes payable in 2006 and 2007, a school district may levy an amount equal to the greater of (1) $10,000, or (2) the district's fiscal year 2001 entitlement for career and technical aid under Minnesota Statutes 2000, section 124D.453. The district must recognize the full amount of this levy as revenue for the fiscal year in which it is certified. Revenue received under this section must be reserved and used only for career and technical programs.

Sec. 17. [127A.21] [STATE COORDINATOR FOR WORLD LANGUAGES.]

(a) The commissioner of education shall designate a full-time state coordinator for world languages education within the Department of Education by July 1, 2005. The commissioner shall seek input from the Quality Teaching Network before designating or hiring the coordinator who must have classroom experience teaching world languages. The coordinator, at a minimum, shall:

(1) survey school districts in the state to:

(i) identify the types of existing world language programs and exemplary model extended world languages programs; and

(ii) in consultation with Minnesota postsecondary institutions, identify and address staff development needs of current world language teachers and preservice teachers;

(2) identify successful extended world language programs from other states;

(3) award grants for model extended world languages programs;

(4) establish guidelines for a variety of model extended world languages programs;

(5) research and recommend the funding necessary to implement various models of extended world languages programs in different languages; and

(6) support and monitor, using the most recent information available, current world language programs.

(b) For the purposes of this section, "extended world languages program" means a world languages program with a sequence of consecutive years in any of kindergarten through grade 12, including for example sequences of kindergarten through grade 12, grades 5 through 12, and grades 7 through 12.

Sec. 18. Minnesota Statutes 2004, section 134.31, is amended by adding a subdivision to read:

Subd. 5a. [ADVISORY COMMITTEE.] The commissioner shall appoint an advisory committee of five members to advise the staff of the Minnesota Library for the Blind and Physically Handicapped on long-range plans and library services. Members shall be people who use the library. Section 15.059 governs this committee except that the committee shall not expire.

Sec. 19. [EMINENCE CREDENTIALING.]

Subdivision 1. [GOAL.] It is the goal of the state to support the teaching and revitalization of the Dakota and Anishinaabe languages, which are contingent to the geographical area included in the state of Minnesota. The Native Language Eminence Credentialing Task Force is created to achieve this goal.

Subd. 2. [MEMBERSHIP.] The Native Language Eminence Credentialing Task Force consists of the following members:

(1) four members representing public schools with large Native American populations appointed by the commissioner of education;

(2) one member appointed by each federally recognized Indian tribe in the state;

(3) one member appointed by each institution of higher education that trains credentialed Dakota and Anishinaabe language teachers;

(4) one member representing the Minnesota Historical Society;

(5) the chair of the state Indian Affairs Council; and

(6) three native speakers of the Anishinaabe language and three native speakers of the Dakota language, all appointed by the Dakota Ojibwe Language Revitalization Alliance.

Subd. 3. [ADMINISTRATION.] (a) The Native Language Eminence Credentialing Task Force is governed by Minnesota Statutes, section 15.059.

(b) The task force shall elect a chair from its membership. The commissioner of education shall provide staff and administrative support for the task force.

Subd. 4. [DUTIES.] The task force shall review and recommend changes to the eminence credentials for teachers of the Dakota and Anishinaabe languages in order to increase the number of fluent "first speakers" who can teach the language and the number of teachers of the Dakota and Anishinaabe languages by considering and addressing the following:

(1) whether a rating system should be developed that includes separate ratings for fluency of the spoken language, writing and reading skills in language, and specifying which dialect of the Anishinaabe and Dakota languages is being spoken;

(2) whether a strategy for determining the level of fluency should be developed;

(3) consistency of evaluation of language fluency;

(4) identifying issues between tribal authority and state law around strategies of language revitalization; and

(5) a strategy to provide affordable and accessible language and culture credentials throughout Minnesota.

Subd. 5. [REPORT.] The task force shall submit a report to the legislature by January 15, 2006, to fulfill the duties of the task force.

Subd. 6. [EXPIRATION.] The task force expires upon submission of the report on January 15, 2006.

Sec. 20. [MODEL EXTENDED WORLD LANGUAGE PROGRAM GRANTS.]

(a) The commissioner of education shall award six three-year grants to school districts and charter schools to develop model extended world languages programs including at least model plans for implementing world languages to close the achievement gap between groups of students. The commissioner shall award grants only for the 2006-2007 through 2008-2009 school years. The commissioner should award grants for a variety of language programs, if possible.

(b) The commissioner shall award grants to four school districts or charter schools in the seven-county metropolitan, Rochester, and Duluth areas, including two urban and two suburban school districts or charter schools, and two school districts or charter schools outside the seven-county metropolitan, Rochester, and Duluth areas, to:

(1) develop a model extended world languages program; or

(2) extend an existing world language program to a model extended program.

(c) A school district and charter school shall apply for a grant in a form and manner prescribed by the commissioner. A school district and charter school must use the grant money to develop and implement or to extend existing world languages programs according to the terms of the grant application and the criteria under paragraph (a).

(d) For the purposes of this section, "extended world languages program" means a world languages program with a sequence of consecutive years in any of kindergarten through grade 12, including for example sequences of kindergarten through grade 12, grades 5 through 12, and grades 7 through 12.

Sec. 21. [TASK FORCE ON DELIVERY OF SPECIAL EDUCATION TO NONPUBLIC SCHOOL STUDENTS BY PUBLIC SCHOOL DISTRICTS.]

Subdivision 1. [PURPOSE; ESTABLISHMENT.] With the congressional reauthorization of the federal Individuals with Disabilities Education Act, a task force on the delivery of special education services to nonpublic school students by public school districts shall be established to compare and evaluate how the individual needs of each child are being met, if services are provided in the least restrictive environment, and whether best practices and program efficiencies are being used in the specific areas of transportation, location of services, and shared time aid.

Subd. 2. [MEMBERS.] The governor shall appoint the members of the task force from each of the following:

(1) two members from the Department of Education, one representing special education programs and policy and one representing district finances;

(2) two special education teachers with one member from a public school and one member from a nonpublic school;

(3) two special education administrators with one member from a public school and one member from a nonpublic school;

(4) two members with one from each of two special education advocacy organizations;

(5) two parents of children receiving special education services with one member from a public school and one member from a nonpublic school;

(6) two elementary school principals with one member from a public school and one member from a nonpublic school;

(7) two superintendents with one member from a public school district and one member from a nonpublic school district;

(8) two school business officials with one from a public school and one from a nonpublic school; and

(9) two school board officials with one from a public school and one from a nonpublic school.

The task force may select additional members to work on the task force. The commissioner of education shall provide necessary materials and assistance.

Subd. 3. [REPORT.] The task force shall submit a report by January 15, 2006, to the house of representatives and senate committees having jurisdiction over education on the delivery of special education services to nonpublic school students by public school districts, to compare and evaluate how the individual needs of each child are being met in the least restrictive environment, and whether best practices and program efficiencies are being used.

Subd. 4. [EXPIRATION.] This section expires January 31, 2006.

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

Sec. 22. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. [WORLD LANGUAGES.] For grants for model extended world languages programs:

$.,...,...	.....	2006
$.,...,...	.....	2007

These appropriations do not cancel but are available until expended.

ARTICLE 3

TECHNOLOGY, FACILITIES, AND NUTRITION

Section 1. Minnesota Statutes 2004, section 123B.492, is amended to read:

123B.492 [SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.]

Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that was used for a one-meter board high school diving program during the 2000-2001 school year may be used for supervised competitive one-meter board high school diving. Schools and school districts are strongly encouraged to use a pool for supervised competitive high school diving that meets the requirements of Minnesota Rules, part 4717.3750. A school or district using a pool for supervised ~~training practice for~~ competitive high school diving for either training practice or competition that does not meet the requirements of Minnesota Rules, part 4717.3750, must provide appropriate notice to parents and participants as to the type of variance from Minnesota Rules and risk it may present.

Sec. 2. Minnesota Statutes 2004, section 123B.71, subdivision 9, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) a specification, if applicable, of how the facility will utilize environmentally sustainable school facility design concepts; and

(14) a description of how the architects and engineers have considered the American National Standards Institute Acoustical Performance Criteria, Design Requirements and Guidelines for Schools on maximum background noise levels and reverberation times.

Sec. 3. Minnesota Statutes 2004, section 124D.095, subdivision 2, is amended to read:

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

(a) "Online learning" is an interactive course or program that delivers instruction from a teacher to a student by computer; is combined with other traditional delivery methods that include frequent student assessment and may include actual teacher contact time; and meets or exceeds state academic standards.

(b) "Online learning provider" is a school district, an intermediate school district, an organization of two or more school districts operating under a joint powers agreement, or a charter school located in Minnesota that provides online learning to students.

(c) "Student" is a Minnesota resident enrolled in a school under section 120A.22, subdivision 4, in kindergarten through grade 12.

(d) "Online learning student" is a student enrolled in an online learning course or program delivered by an online provider under paragraph (b).

(e) "Enrolling district" means the school district or charter school in which a student is enrolled under section 120A.22, subdivision 4, for purposes of compulsory attendance.

Sec. 4. Minnesota Statutes 2004, section 124D.095, subdivision 4, is amended to read:

Subd. 4. [ONLINE LEARNING PARAMETERS.] (a) An online learning student must receive academic credit for completing the requirements of an online learning course or program. Secondary credits granted to an online learning student must be counted toward the graduation and credit requirements of the enrolling district. The enrolling district must apply the same graduation requirements to all students, including online learning students, and must continue to provide nonacademic services to online learning students. If a student completes an online learning course or program that meets or exceeds a graduation standard or grade progression requirement at the enrolling district, that standard or requirement is met. The enrolling district must use the same criteria for accepting online learning credits or courses as it does for accepting credits or courses for transfer students under section 124D.03, subdivision 9. The enrolling district may reduce the

teacher contact time of an online learning student in proportion to the number of online learning courses the student takes from an online learning provider that is not the enrolling district.

(b) An online learning student may:

(1) enroll during a single school year in a maximum of 12 semester-long courses or their equivalent delivered by an online learning provider or the enrolling district;

(2) complete course work at a grade level that is different from the student's current grade level; and

(3) enroll in additional courses with the online learning provider under a separate agreement that includes terms for payment of any tuition or course fees.

(c) A student with a disability may enroll in an online learning course or program if the student's IEP team determines that online learning is appropriate education for the student.

(d) An online learning student has the same access to the computer hardware and education software available in a school as all other students in the enrolling district. An online learning provider must assist an online learning student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software for online learning purposes.

(e) An enrolling district may offer online learning to its enrolled students. Such online learning does not generate online learning funds under this section. An enrolling district that offers online learning only to its enrolled students is not subject to the reporting requirements or review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to enrolled students receiving online learning from an enrolling district. The delivery of instruction occurs when the student interacts with the computer or the teacher. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.

(f) An online learning provider that is not the enrolling district is subject to the reporting requirements and review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to online learning students. The delivery of instruction occurs when the student interacts with the computer or the teacher. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license. Unless the commissioner grants a waiver, a teacher providing online learning instruction must not instruct more than 40 students in any one online learning course or program.

Sec. 5. Minnesota Statutes 2004, section 124D.095, subdivision 8, is amended to read:

Subd. 8. [FINANCIAL ARRANGEMENTS.] (a) For a student enrolled in an on-line learning course, the department must calculate average daily membership and make payments according to this subdivision.

(b) The initial on-line learning average daily membership equals 1/12 for each semester course or a proportionate amount for courses of different lengths. The adjusted on-line learning average daily membership equals the initial on-line learning average daily membership times .88.

(c) No on-line learning average daily membership shall be generated if: (1) the student does not complete the on-line learning course, ~~or~~ (2) the student is enrolled in on-line learning provided by the enrolling district and ~~the student was enrolled in a Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning~~ the student is enrolled in an instructional program in which at least 40 percent of the total instructional time takes place in the school's facilities, or (3) the student is enrolled in online learning and the student was enrolled in and received funding for online learning for the school year before the school year in which the student is currently enrolled. For students enrolled in on-line learning according to clause (2), the department shall calculate average daily membership according to section 126C.05, subdivision 8.

(d) On-line learning average daily membership under this subdivision for a student currently enrolled in a Minnesota public school ~~and who was enrolled in a Minnesota public school for the~~

~~school year before the school year in which the student first enrolled in on-line learning~~ shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause (ii), and for computing on-line learning aid according to section ~~126C.24~~ 124D.096.

~~(e) On-line learning average daily membership under this subdivision for students not included in paragraph (c) or (d) shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause (ii), and for computing payments under paragraphs (f) and (g).~~

~~(f) Subject to the limitations in this subdivision, the department must pay an on-line learning provider an amount equal to the product of the adjusted on-line learning average daily membership for students under paragraph (e) times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.~~

~~(g) The department must pay each on-line learning provider 100 percent of the amount in paragraph (f) within 45 days of receiving final enrollment and course completion information each quarter or semester.~~

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006.

Sec. 6. Minnesota Statutes 2004, section 124D.095, is amended by adding a subdivision to read:

Subd. 10. [ONLINE LEARNING ADVISORY COUNCIL.] (a) An online learning advisory council is established under section 15.059, except that the term for each council member shall be three years. The advisory council is composed of 12 members from throughout the state who have demonstrated experience with or interest in online learning. The members of the council shall be appointed by the commissioner. The advisory council shall bring to the attention of the commissioner any matters related to online learning and provide input to the department in matters related, but not restricted, to:

(1) quality assurance;

(2) teacher qualifications;

(3) program approval;

(4) special education;

(5) attendance;

(6) program design and requirements; and

(7) fair and equal access to programs.

(b) The online learning advisory council under this subdivision expires June 30, 2008.

Sec. 7. [125B.26] [TELECOMMUNICATIONS/INTERNET ACCESS EQUITY AID.]

Subdivision 1. [COSTS TO BE SUBMITTED.] (a) A district or charter school shall submit its actual telecommunications/Internet access costs for the previous fiscal year, adjusted for any e-rate revenue received, to the department by August 15 of each year as prescribed by the commissioner. Costs eligible for reimbursement under this program are limited to the following:

(1) ongoing or recurring telecommunications/Internet access costs associated with Internet access, data lines, and video links providing:

(i) the equivalent of one data line, video link, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each elementary school, middle school, or high school under section 120A.05, subdivisions 9, 11, and 13, including the recurring telecommunications line lease costs and ongoing Internet access service fees; or

(ii) the equivalent of one data line or video circuit, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each district, including recurring telecommunications line lease costs and ongoing Internet access service fees;

(2) recurring costs of contractual or vendor-provided maintenance on the school district's wide area network to the point of presence at the school building up to the router, codec, or other service delivery equipment located at the point of presence termination at the school or school district;

(3) recurring costs of cooperative, shared arrangements for regional delivery of telecommunications/Internet access between school districts, postsecondary institutions, and public libraries including network gateways, peering points, regional network infrastructure, Internet2 access, and network support, maintenance, and coordination; and

(4) service provider installation fees for installation of new telecommunications lines or increased bandwidth.

(b) Costs not eligible for reimbursement under this program include:

(1) recurring costs of school district staff providing network infrastructure support;

(2) recurring costs associated with voice and standard telephone service;

(3) costs associated with purchase of network hardware, telephones, computers, or other peripheral equipment needed to deliver telecommunications access to the school or school district;

(4) costs associated with laying fiber for telecommunications access;

(5) costs associated with wiring school or school district buildings;

(6) costs associated with purchase, installation, or purchase and installation of Internet filtering; and

(7) costs associated with digital content, including on-line learning or distance learning programming, and information databases.

Subd. 2. [E-RATES.] To be eligible for aid under this section, a district or charter school is required to file an e-rate application either separately or through its telecommunications access cluster and have a current technology plan on file with the department. Discounts received on telecommunications expenditures shall be reflected in the costs submitted to the department for aid under this section.

Subd. 3. [REIMBURSEMENT CRITERIA.] The commissioner shall develop criteria for approving costs submitted by school districts and charter schools under subdivision 1.

Subd. 4. [DISTRICT AID.] For fiscal year 2006, a district or charter school's Internet access equity aid equals 90 percent of the district or charter school's approved cost for the previous fiscal year according to subdivision 1 exceeding $15 times the district's adjusted marginal cost pupil units for the previous fiscal year. For fiscal year 2007 and later, a district or charter school's Internet access equity aid equals 90 percent of the district or charter school's approved cost for the previous fiscal year according to subdivision 1 exceeding $18 times the district's adjusted pupil units for the previous fiscal year, as adjusted under section 126C.05, subdivision 14.

Subd. 5. [TELECOMMUNICATIONS/INTERNET ACCESS SERVICES FOR NONPUBLIC SCHOOLS.] (a) Districts shall provide each year upon formal request by or on behalf of a nonpublic school, not including home schools, located in that district or area, ongoing or recurring telecommunications access services to the nonpublic school either through existing district providers or through separate providers.

(b) The amount of district aid for telecommunications access services for each nonpublic school under this subdivision equals the lesser of:

(1) 90 percent of the nonpublic school's approved cost for the previous fiscal year according to subdivision 1 exceeding $10 for fiscal year 2006 and $13 for fiscal year 2007 and later times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year; or

(2) the product of the district's aid per pupil unit according to subdivision 4 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year.

(c) For purposes of this subdivision, nonpublic school pupils shall be weighted by grade level using the weighting factors defined in section 126C.05, subdivision 1.

(d) Each year, a district providing services under paragraph (a) may claim up to five percent of the aid determined in paragraph (b) for costs of administering this subdivision. No district may expend an amount for these telecommunications access services which exceeds the amount allocated under this subdivision. The nonpublic school is responsible for the Internet access costs not covered by this section.

(e) At the request of a nonpublic school, districts may allocate the amount determined in paragraph (b) directly to the nonpublic school to pay for or offset the nonpublic school's costs for telecommunications access services, however, the amount allocated directly to the nonpublic school may not exceed the actual amount of the school's ongoing or recurring telecommunications access costs.

Subd. 6. [SEVERABILITY.] If any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006.

Sec. 8. Minnesota Statutes 2004, section 128C.12, subdivision 1, is amended to read:

Subdivision 1. [DUES AND EVENTS REVENUE.] (a) The state auditor annually must examine the accounts of, and audit all money paid to, the State High School League by its members. The audit must include financial and compliance issues. The ~~state auditor~~ audit must also ~~audit~~ include all money derived from any event sponsored by the league. ~~League audits must include audits of administrative regions of the league. The league and its administrative regions may not contract with private auditors. The scope of the state auditor's examinations of the league must be agreed upon by the board and the state auditor, provided that all requirements of this section must be met.~~

(b) The administrative regions of the league may contract with the state auditor or with a private certified public accountant for the audit required by this section. If the audit is performed by a private certified public accountant, the state auditor may require additional information from the private certified public accountant as the state auditor deems in the public interest. The state auditor may accept the audit or make additional examinations as the state auditor deems to be in the public interest.

Sec. 9. Minnesota Statutes 2004, section 128C.12, subdivision 3, is amended to read:

Subd. 3. [COPIES.] The ~~state auditor~~ board must file copies of the ~~financial and compliance~~ audit report with the commissioner of education and the director of the Legislative Reference Library.

Sec. 10. [SCHOOLS INTEROPERABILITY FRAMEWORK.]

By July 1, 2007, schools, school districts, and the Department of Education must comply with the phase one implementation requirements of the Schools Interoperability Framework specifications to provide for efficient student data sharing.

Sec. 11. [SCHOOL DATA SHARING WORKING GROUP.]

Subdivision 1. [MEMBERSHIP.] (a) The commissioner of administration and the chief information officer shall convene a working group consisting of representatives of the following:

(1) several school districts that are diverse in size and location;

(2) charter schools;

(3) alternative learning centers;

(4) the Department of Education; and

(5) up to three citizens with expertise in information technology.

(b) The working group must:

(1) develop a uniform data model that is usable for schools, school districts, and the Department of Education and enables effective data sharing among schools, school districts, and the Department of Education; and

(2) evaluate the feasibility, costs, and benefits of consolidating the provision of data processing, storage, and exchange services currently performed by districts with a single provider for all student-related data reported through the Minnesota Automated Reporting Student System; and

(3) define the responsibilities of state agencies, regional management information centers, school districts, and schools in implementing data interoperability, and determine any state-specific requirements for school data interoperability.

Subd. 2. [REPORT TO LEGISLATURE.] The working group must report on the work performed under subdivision 1 to the legislature by January 15, 2006. The report must include a recommendation of any legislative changes needed to streamline exchange of data among districts and reports for schools and school districts. The report must include a recommendation on the feasibility of consolidating the provision of student data processing products and services by the state on behalf of school districts.

Sec. 12. [TESTING BASED ON A GROWTH MODEL.]

(a) For the purposes of the No Child Left Behind Act, Public Law 107-110, and the statewide testing and reporting system under Minnesota Statutes, section 120B.30, the commissioner of education must select computer-based adaptive assessments that accurately measure student achievement and student growth across time. The selected assessments must be aligned with Minnesota standards, use a common scale score over multiple grades or ages, have been used by Minnesota school districts, and be capable of being used for source data for a growth or value-added model of school evaluation. An assessment selected under this section administered at the high school level must be aligned with college entrance requirements. In addition to reporting requirements in Minnesota Statutes, section 120B.30, the commissioner must report assessment result data in a way that shows the growth trends over time for students in four groups:

(1) performing above grade level;

(2) performing at grade level;

(3) approaching grade-level performance; and

(4) performing significantly below grade level.

If the federal Department of Education does not approve the use of the computer-adaptive assessments selected under this section, the commissioner must notify the federal Department of Education that Minnesota is opting out of the provisions of the No Child Left Behind Act.

(b) The Department of Education must assist schools that are eligible to receive Microsoft settlement cy pres program vouchers in using the vouchers to acquire equipment and software necessary to administer the assessment selected under this section.

Sec. 13. [STUDENT PORTFOLIO DEMONSTRATION PROJECT.]

Subdivision 1. [ASSESSMENT.] The commissioner of education shall select up to three school districts to participate in a student portfolio demonstration project. Demonstration project participants must use a portfolio assessment that has demonstrated content validity with respect to the required academic standards under Minnesota Statutes, section 120B.021, and are aligned with appropriate benchmarks established under Minnesota Statutes, section 120B.023. Districts that are part of the demonstration project may use the student portfolio to comply with the assessment portion of the No Child Left Behind Act.

Subd. 2. [APPLICATION.] A school district must submit an application in the form and manner prescribed by the commissioner in order to participate in the demonstration project. A school district's application must include a plan indicating the grade level and content area in which student portfolios will be used.

Subd. 3. [COMMISSIONER.] (a) The commissioner shall determine the technical soundness of the portfolio assessment selected by a school district. In addition, the commissioner shall determine comparability of the chosen assessment to the state-administered tests used in other grade levels.

(b) The commissioner shall submit a request to the federal Department of Education to use a local assessment model that uses student portfolios for compliance with the assessment portion of the No Child Left Behind Act.

Sec. 14. [REPEALER.]

Minnesota Statutes 2004, sections 123B.749; 124D.095, subdivision 9; and 128C.12, subdivision 4, are repealed.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006."

Delete the title and insert:

"A bill for an act relating to education; education excellence; special programs; technology, facilities, and nutrition; appropriating money; amending Minnesota Statutes 2004, sections 13.321, by adding a subdivision; 120B.02; 120B.021, subdivision 1, by adding a subdivision; 120B.024; 120B.11, subdivisions 1, 2, 3, 4, 5, 8; 120B.13, subdivisions 1, 3; 120B.30, subdivisions 1, 1a, by adding a subdivision; 121A.06, subdivisions 2, 3; 121A.53; 121A.66, subdivision 5, by adding subdivisions; 121A.67; 122A.06, subdivision 4; 122A.15, by adding a subdivision; 122A.18, subdivision 2a; 122A.40, subdivision 5; 122A.41, subdivisions 2, 5a, 14; 122A.413; 123A.24, subdivision 2; 123B.02, by adding subdivisions; 123B.492; 123B.71, subdivision 9; 123B.92, subdivision 1; 124D.09, subdivision 12; 124D.095, subdivisions 2, 4, 8, by adding a subdivision; 124D.10, subdivision 3; 124D.11, subdivisions 1, 6; 124D.66, subdivision 3; 124D.74, subdivision 1; 124D.81, subdivision 1; 124D.84, subdivision 1; 125A.05; 125A.24; 125A.28; 125A.51; 126C.10, subdivision 1, by adding a subdivision; 126C.457; 128C.12, subdivisions 1, 3; 134.31, by adding a subdivision; 179A.03, subdivision 14; 260C.201, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123A; 124D; 125B; 127A; 129C; repealing Minnesota Statutes 2004, sections 121A.23; 122A.414; 122A.415; 123B.749; 124D.095, subdivision 9; 128C.12, subdivision 4."

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

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

S.F. No. 630: A bill for an act relating to civil law; reforming and recodifying the law relating to marriage dissolution, child custody, child support, maintenance, and property division; changing a fee; making style and form changes; appropriating money; amending Minnesota Statutes 2004, sections 357.021, by adding a subdivision; 518.002; 518.003, subdivisions 1, 3; 518.005; 518.01; 518.02; 518.03; 518.04; 518.05; 518.055; 518.06; 518.07; 518.09; 518.091, subdivision 1; 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1; 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, 6; 518.165; 518.166; 518.167, subdivisions 3, 4, 5;

518.168; 518.1705, subdivisions 2, 6, 7, 8, 9; 518.175; 518.1751, subdivisions 1b, 2, 2a, 2b, 2c, 3; 518.1752; 518.176; 518.177; 518.178; 518.179, subdivision 1; 518.18; 518.191, subdivision 1; 518.195, subdivisions 2, 3; 518.24; 518.25; 518.27; 518.54, subdivisions 1, 5, 6, 7, 8; 518.55; 518.552; 518.58; 518.581; 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1, 2; 518.641; 518.642; 518.646; 518.65; 518.68, subdivision 1; 519.11, subdivision 1; proposing coding for new law as Minnesota Statutes, chapters 517A; 517B; 517C; repealing Minnesota Statutes 2004, sections 518.111; 518.14, subdivision 2; 518.171; 518.24; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.55, subdivision 4; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; 518.62; 518.64, subdivisions 4, 4a, 5; 518.68.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 518.005, is amended by adding a subdivision to read:

Subd. 6. [FILING FEE.] The initial pleading filed in all proceedings for dissolution of marriage, legal separation, or annulment or proceedings to establish child support obligations shall be accompanied by a filing fee of $..... The fee is in addition to any other prescribed by law or rule.

Sec. 2. Minnesota Statutes 2004, section 518.54, subdivision 7, is amended to read:

Subd. 7. [OBLIGEE.] "Obligee" means a person to whom payments for maintenance ~~or support~~ are owed.

Sec. 3. Minnesota Statutes 2004, section 518.54, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR.] "Obligor" means a person ~~obligated~~ ordered to pay maintenance or child support. A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support ~~under section 518.551~~ unless the court makes specific written findings to overcome this presumption. For purposes of ordering medical support under section 518.719, a custodial parent may be an obligor subject to a cost-of-living adjustment under section 518.641 and a payment agreement under section 518.553.

Sec. 4. Minnesota Statutes 2004, section 518.55, subdivision 4, is amended to read:

Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public authority or a party may request the district court to determine a controlling order in situations in which more than one order involving the same obligor and child exists. The court shall presume that the latest order that involves the same obligor and joint child is controlling, subject to contrary proof.

Sec. 5. Minnesota Statutes 2004, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] ~~(a)~~ The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their Social Security account numbers, and their birth dates. After receipt of the notice, the court shall set child support as provided in ~~this subdivision~~ section 518.725. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph ~~(i)~~ (b). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in ~~paragraph (c)~~ section 518.714 and any departure therefrom. The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

(b) The court shall derive a specific dollar amount for child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$551 - 600	16%	19%	22%	25%	28%	30%	32%
$601 - 650	17%	21%	24%	27%	29%	32%	34%
$651 - 700	18%	22%	25%	28%	31%	34%	36%
$701 - 750	19%	23%	27%	30%	33%	36%	38%
$751 - 800	20%	24%	28%	31%	35%	38%	40%
$801 - 850	21%	25%	29%	33%	36%	40%	42%
$851 - 900	22%	27%	31%	34%	38%	41%	44%
$901 - 950	23%	28%	32%	36%	40%	43%	46%
$951 - 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 5000	25%	30%	35%	39%	43%	47%	50%
or the amount in effect under paragraph (k)							

Guidelines for support for an obligor with a monthly income in excess of the income limit currently in effect under paragraph (k) shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income equal to the limit in effect.

Net Income defined as:

Total monthly income less

*Standard Deductions apply- use of tax tables recommended

*(i) Federal Income Tax
*(ii) State Income Tax
(iii) Social Security Deductions
(iv) Reasonable Pension Deductions
(v) Union Dues
(vi) Cost of Dependent Health Insurance Coverage
(vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses
(viii) A Child Support or Maintenance Order that is Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(ii) the party demonstrates, and the court finds, that:

(A) the excess employment began after the filing of the petition for dissolution;

(B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(C) the excess employment is voluntary and not a condition of employment;

(D) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(E) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

The court shall review the work-related and education-related child care costs paid and shall allocate the costs to each parent in proportion to each parent's net income, as determined under this subdivision, after the transfer of child support and spousal maintenance, unless the allocation would be substantially unfair to either parent. There is a presumption of substantial unfairness if after the sum total of child support, spousal maintenance, and child care costs is subtracted from the obligor's income, the income is at or below 100 percent of the federal poverty guidelines. The cost of child care for purposes of this paragraph is 75 percent of the actual cost paid for child care, to reflect the approximate value of state and federal tax credits available to the obligee. The actual cost paid for child care is the total amount received by the child care provider for the child or children of the obligor from the obligee or any public agency. The court shall require verification of employment or school attendance and documentation of child care expenses from the obligee and the public agency, if applicable. If child care expenses fluctuate during the year because of seasonal employment or school attendance of the obligee or extended periods of parenting time with the obligor, the court shall determine child care expenses based on an average monthly cost. The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518.641. The amount allocated for child care expenses terminates when either party notifies the public authority that the child care costs have ended and without any legal action on the part of either party. The public authority shall verify the information received under this provision before authorizing termination. The termination is effective as of the date of the notification. In other cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518.64.

The court may allow the obligor parent to care for the child while the obligee parent is working, as provided in section 518.175, subdivision 8, but this is not a reason to deviate from the guidelines.

(c) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (b), clause (2)(ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standard of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

~~(4) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it;~~

~~(5) the parents' debts as provided in paragraph (d); and~~

~~(6) the obligor's receipt of public assistance under the AFDC program formerly codified under sections 256.72 to 256.82 or 256B.01 to 256B.40 and chapter 256J or 256K.~~

~~(d) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:~~

~~(1) the right to support has not been assigned under section 256.741;~~

~~(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and~~

~~(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.~~

~~(e) Any schedule prepared under paragraph (d), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.~~

~~(f) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.~~

~~(g) If payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.~~

~~(h) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.~~

~~(i) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and shall specifically address the criteria in paragraph (c) and how the deviation serves the best interest of the child. The court may deviate from the guidelines if both parties agree and the court makes written findings that it is in the best interests of the child, except that in cases where child support payments are assigned to the public agency under section 256.741, the court may deviate downward only as provided in paragraph (j). Nothing in this paragraph prohibits the court from deviating in other cases. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.~~

~~(j) If the child support payments are assigned to the public agency under section 256.741, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.~~

~~(k) The dollar amount of the income limit for application of the guidelines must be adjusted on~~

~~July 1 of every even-numbered year to reflect cost-of-living changes. The Supreme Court shall select the index for the adjustment from the indices listed in section 518.641. The state court administrator shall make the changes in the dollar amount required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.~~

~~(l) In establishing or modifying child support, if a child receives a child's insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered shall be offset by the amount of the child's benefit. The court shall make findings regarding the obligor's income from all sources, the child support amount calculated under this section, the amount of the child's benefit, and the obligor's child support obligation. Any benefit received by the child in a given month in excess of the child support obligation shall not be treated as an arrearage payment or a future payment.~~

Sec. 6. Minnesota Statutes 2004, section 518.551, subdivision 5b, is amended to read:

Subd. 5b. [DETERMINATION OF INCOME.] (a) ~~The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefits statements, workers' compensation statements, and all other documents evidencing income as received that provide verification of income over a longer period~~ In any case where the parties have joint children for which a child support order must be determined, the parties shall serve and file with their initial pleadings or motion documents, a financial affidavit, disclosing all sources of gross income and other information sufficient to calculate gross income and adjusted gross income. The financial affidavit shall include supporting documentation for all adjusted gross income, including, but not limited to, pay stubs for the most recent three months, employer statements, or statements of receipts and expenses if self-employed. Documentation of earnings and income also include copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not ~~appear at a court hearing after proper notice of the time and place of the hearing~~ serve and file the financial affidavit with the parent's initial pleading, the court shall set income for that parent based on credible evidence before the court or in accordance with ~~paragraph (d)~~ section 518.712, subdivision 19. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044.

~~(d) If the court finds that a parent is voluntarily unemployed or underemployed or was voluntarily unemployed or underemployed during the period for which past support is being sought, support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications.~~

~~(e) If there is insufficient information to determine actual income or to impute income pursuant to paragraph (d), the court may calculate support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is a recipient of public assistance under section 256.741, or is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.~~

~~(f) Income from self employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Net income under this section may be different from taxable income.~~

Sec. 7. [518.6197] [CHILD SUPPORT DEBT/ARREARAGE MANAGEMENT.]

In order to reduce and otherwise manage support debts and arrearages, the parties, including the public authority where arrearages have been assigned to the public authority, may compromise unpaid support debts or arrearages owed by one party to another, whether or not docketed as a judgment. A party may agree or disagree to compromise only those debts or arrearages owed to that party.

Sec. 8. Minnesota Statutes 2004, section 518.62, is amended to read:

518.62 [TEMPORARY MAINTENANCE.]

Temporary maintenance ~~and temporary support~~ may be awarded as provided in section 518.131. The court may also award to either party to the proceeding, having due regard to all the circumstances and the party awarded the custody of the children, the right to the exclusive use of the household goods and furniture of the parties pending the proceeding and the right to the use of the homestead of the parties, exclusive or otherwise, pending the proceeding. The court may order either party to remove from the homestead of the parties upon proper application to the court for an order pending the proceeding.

Sec. 9. Minnesota Statutes 2004, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased ~~earnings of a party~~ gross income of an obligor or obligee; (2) substantially increased or decreased need of ~~a party~~ an obligor or obligee or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; ~~or~~ (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; (7) upon the emancipation of the child if there is still a child under the order. A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until modified or until the emancipation of the last child that the order was made.

~~On a motion to modify support, the needs of any child the obligor has after the entry of the support order that is the subject of a modification motion shall be considered as provided by section 518.551, subdivision 5f.~~

(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section 518.551, subdivision 5, to the

current circumstances of the parties results in a calculated court order that is at least 20 percent and at least ~~$50~~ $75 per month higher or lower than the current support order;

(2) the medical support provisions of the order established under section ~~518.171~~ 518.719 are not enforceable by the public authority or the obligee;

(3) health coverage ordered under section ~~518.171~~ 518.719 is not available to the child for whom the order is established by the parent ordered to provide; or

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

(c) A child support order is not presumptively modifiable solely because an obligor or obligee becomes responsible for the support of an additional nonjoint child, which is born after an existing order.

(d) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section ~~518.551, subdivision 5~~ 518.725, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

~~(d)~~ (e) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. ~~However, modification may be applied to an earlier period if the court makes express findings that:~~

~~(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;~~

~~(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought;~~

~~(3) the order for which the party seeks amendment was entered by default, the party shows~~

~~good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay; or~~

~~(4) the party seeking modification was institutionalized or incarcerated for an offense other than nonsupport of a child during the period for which retroactive modification is sought and lacked the financial ability to pay the support ordered during that time period. In determining whether to allow the retroactive modification, the court shall consider whether and when a request was made to the public authority for support modification.~~

The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

~~(e)~~ (f) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

~~(f)~~ (g) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

~~(g)~~ (h) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

(i) An enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

(j) There may be no modification of an existing child support order during the first year following the effective date of sections 518.712 to 518.729 except as follows:

(1) there is at least a 20 percent change in the gross income of the obligor;

(2) there is a change in the number of joint children for whom the obligor is legally responsible and actually supporting;

(3) the child supported by the existing child support order becomes disabled; or

(4) both parents consent to modification of the existing order in compliance with the new income shares guidelines.

(k) On the first modification under the income shares method of calculation, the modification of basic support may be limited if the amount of the full variance would create hardship for either the obligor or the obligee.

Paragraph (j) expires January 1, 2008.

Sec. 10. Minnesota Statutes 2004, section 518.64, is amended by adding a subdivision to read:

Subd. 7. [CHILD CARE EXCEPTION.] The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expense is decreased.

Sec. 11. Minnesota Statutes 2004, section 518.64, is amended by adding a subdivision to read:

Subd. 8. [CHILD SUPPORT DEBT AND ARREARAGE MANAGEMENT.] The parties, including the public authority, may compromise child support debt or arrearages owed by one party to another, whether or not reduced to judgment, upon agreement of the parties involved.

Sec. 12. Minnesota Statutes 2004, section 518.68, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

According to Minnesota Statutes, section 518.551, subdivision 1, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If the obligor is laid off from employment or receives a pay reduction, support may be reduced, but only if a motion to reduce the support is served and filed with the court. Any reduction will take effect only if ordered by the court and may only relate back to the time that the motion is filed. If a motion is not filed, the support obligation will continue at the current level. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (c).

(h) Reasonable parenting time guidelines are contained in Appendix B, which is available from the court administrator.

(i) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

(j) The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of section 518.551, subdivision 5, paragraph (b), are met.

5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518.6111 have been met. A copy of those sections is available from any district court clerk.

7. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address, telephone number, driver's license number, Social Security number, and name, address, and telephone number of the employer.

8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index ....., unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

9. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, according to Minnesota Statutes, section 548.091, subdivision 1a.

10. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

12. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

13. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 13. [518.712] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 518.712 to 518.753.

Subd. 2. [GROSS INCOME FOR DETERMINING CHILD SUPPORT.] "Gross income for determining child support" means gross income minus deductions for nonjoint children as allowed by section 518.717.

Subd. 3. [APPORTIONED VETERANS' BENEFITS.] "Apportioned veterans' benefits" means the amount the Veterans Administration deducts from the veteran's award and disburses to the child or the child's representative payee. The apportionment of veterans' benefits shall be that determined by the Veterans Administration and governed by Code of Federal Regulations, title 38, sections 3.450 to 3.458.

Subd. 4. [ARREARS.] "Arrears" are amounts that accrue pursuant to an obligor's failure to comply with a support order. Past support and pregnancy and confinement expenses contained in a support order are arrears if the court order does not contain repayment terms. Arrears also arise by the obligor's failure to comply with the terms of a court order for repayment of past support or pregnancy and confinement expenses. An obligor's failure to comply with the terms for repayment of amounts owed for past support or pregnancy and confinement turns the entire amount owed into arrears.

Subd. 5. [BASIC SUPPORT.] "Basic support" means the support obligation determined by applying the parent's adjusted gross income, or if there are two parents, their combined adjusted gross income, to the guideline in the manner set out in section 518.725.

Basic support includes the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care. Basic support does not include monetary contributions for a child's child care expenses, and medical and dental expenses.

Subd. 6. [CHILD.] "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.

Subd. 7. [CHILD SUPPORT.] "Child support or support money" means an amount for basic support, child care support, and medical support pursuant to:

(1) an award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support, and education of a child of the marriage or of the parties to the proceeding;

(2) a contribution by parents ordered under section 256.87; or

(3) support ordered under chapter 518B or 518C.

Subd. 8. [DEPOSIT ACCOUNT.] "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.

Subd. 9. [GROSS INCOME.] "Gross income" means:

(1) the gross income of the parent calculated pursuant to section 518.7123; plus

(2) the potential income of the parent, if any, as determined in subdivision 19; minus

(3) spousal maintenance that any party has been ordered to pay.

Subd. 10. [IV-D CASE.] "IV-D case" means a case where a party assigns rights to child support to the state because the party receives public assistance, as defined in section 256.741, or applies for child support services under title IV-D of the Social Security Act, United States Code, title 42, section 654(4).

Subd. 11. [JOINT CHILD.] "Joint child" means the dependent child who is the son or daughter of both parents in the support proceeding. In those cases where support is sought from only one parent of a child, a joint child is the child for whom support is sought.

Subd. 12. [NONJOINT CHILD.] "Nonjoint child" means the legal child of one, but not both of the parents subject to this determination. Specifically excluded from this definition are stepchildren.

Subd. 13. [OBLIGOR.] "Obligor" has the meaning provided by section 518.54, subdivision 8.

Subd. 14. [OBLIGEE.] "Obligee" means a person to whom payments for child support are owed.

Subd. 15. [PARENTING TIME.] "Parenting time" means the amount of time a child is scheduled to spend with the parent according to a court order. Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. For purposes of section 518.722, the percentage of parenting time may be calculated by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights as the parent has significant time periods where the child is in the parent's physical custody, but does not stay overnight.

Subd. 16. [PAYOR OF FUNDS.] "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24, section 3401(d), of the Internal Revenue Code, an independent contractor, payor of workers' compensation benefits or unemployment insurance benefits, or a financial institution as defined in section 13B.06.

Subd. 17. [POTENTIAL INCOME.] "Potential income" is income determined under this subdivision.

(a) If a parent is voluntarily unemployed, underemployed, or employed on a less than a full-time basis, or there is no direct evidence of any income, child support shall be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis.

(b) Determination of potential income shall be made according to one of three methods, as appropriate:

(1) the parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or

(2) if a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received; or

(3) the amount of income a parent could earn working full-time at 150 percent of the current federal or state minimum wage, whichever is higher.

(c) A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:

(1) unemployment or underemployment is temporary and will ultimately lead to an increase in income;

(2) the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child; or

(3) the parent is unable to work full-time due to a verified disability or due to incarceration.

(d) As used in this section, "full-time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers due to custom, practice, or agreement utilize a normal work week of more or less than 40 hours in a week.

(e) If the parent of a joint child is a recipient of a temporary assistance to a needy family (TANF) cash grant, no potential income shall be imputed to that parent.

(f) If a parent stays at home to care for a child who is subject to the child support order, the court may consider the following factors when determining whether the parent is voluntarily unemployed or underemployed:

(1) the parties' parenting and child care arrangements before the child support action;

(2) the stay-at-home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;

(3) the relationship between the employment-related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;

(4) the child's age and health, including whether the child is physically or mentally disabled; and

(5) the availability of child care providers.

Subd. 18. [PRIMARY PHYSICAL CUSTODY.] The parent having "primary physical custody" means the parent who provides the primary residence for a child and is responsible for the majority of the day-to-day decisions concerning a child.

Subd. 19. [PUBLIC AUTHORITY.] "Public authority" means the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Department of Human Services, Child Support Enforcement Division.

Subd. 20. [SOCIAL SECURITY BENEFITS.] "Social Security benefits" means the monthly amount the Social Security Administration pays to a joint child or the child's representative payee due solely to the disability or retirement of either parent. Benefits paid to a parent due to the disability of a child are excluded from this definition.

Subd. 21. [SPLIT CUSTODY.] "Split custody" means that each parent in a two-parent calculation has primary physical custody of at least one of the joint children.

Subd. 22. [SPOUSAL MAINTENANCE.] "Spousal maintenance" has the definition as provided in section 518.54, subdivision 3, and includes the amount of any preexisting or concurrently entered court ordered spousal maintenance.

Subd. 23. [SUPPORT ORDER.] (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction that:

(1) provides for the support of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living;

(2) provides for basic support, child care, medical support including expenses for confinement and pregnancy, arrears, or reimbursement; and

(3) may include related costs and fees, interest and penalties, income withholding, and other relief.

(b) The definition in paragraph (a) applies to orders issued under this chapter and chapters 256, 257, and 518C.

Subd. 24. [SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.] "Survivors' and dependents' educational assistance" are funds disbursed by the Veterans Administration under United States Code, title 38, chapter 35, to the child or the child's representative payee.

Sec. 14. [518.7123] [CALCULATION OF GROSS INCOME.]

(a) Except as excluded below, gross income includes income from any source, including, but not limited to, salaries, wages, commissions, advances, bonuses, dividends, severance pay, pensions, interest, honoraria, trust income, annuities, return on capital, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, including lottery winnings, alimony, spousal maintenance payments, income from self-employment or operation of a business, as determined under section 518.7125. All salary, wages, commissions, or other compensation paid by third parties shall be based upon Medicare gross income. No deductions shall be allowed for contributions to pensions, 401-K, IRA, or other deferred compensation.

(b) Excluded and not counted in gross income is compensation received by a party for employment in excess of a 40-hour work week, provided that:

(1) child support is nonetheless ordered in an amount at least equal to the guideline amount based on gross income not excluded under this clause; and

(2) the party demonstrates, and the court finds, that:

(i) the excess employment began after the filing of the petition for dissolution;

(ii) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(iii) the excess employment is voluntary and not a condition of employment;

(iv) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(v) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(c) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they reduce personal living expenses.

(d) Gross income may be calculated on either an annual or monthly basis. Weekly income shall be translated to monthly income by multiplying the weekly income by 4.33.

(e) Excluded and not counted as income is any child support payment. It is a rebuttable

presumption that adoption assistance payments, guardianship assistance payments, and foster care subsidies are excluded and not counted as income.

(f) Excluded and not counted as income is the income of the obligor's spouse and the obligee's spouse.

Sec. 15. [518.7125] [INCOME FROM SELF-EMPLOYMENT OR OPERATION OF A BUSINESS.]

For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the court to be inappropriate or excessive for determining gross income for purposes of calculating child support.

Sec. 16. [518.713] [COMPUTATION OF INDIVIDUAL CHILD SUPPORT OBLIGATIONS.]

To determine the presumptive amount of support owed by a parent, follow the procedure set forth in this section:

(1) determine the gross income of each parent using the definition in section 518.712, subdivision 9;

(2) determine the gross income for determining child support of each parent, and if there are two parents, the combined adjusted gross income by subtracting from the gross income, the credit, if any, for any nonjoint children under section 518.717;

(3) if there are two parents, determine the percentage contribution of each parent to the combined adjusted gross income by dividing the combined adjusted gross income into each parent's adjusted gross income;

(4) determine the basic child support obligation by application of the guideline in section 518.725;

(5) determine each parent's share of the basic child support obligation by multiplying the percentage figure from clause (3) by the basic child support obligation in clause (4);

(6) determine the parenting expense adjustment if any and determine the basic child support obligation of the parents as provided in section 518.722;

(7) apply the low-income adjustment, if applicable, as provided in section 518.723;

(8) determine the cost for each parent for child care costs as allowed by section 518.72;

(9) determining the cost for each parent for medical expenses and health care coverage as allowed by section 518.719. If costs are not equal each month, annual costs shall be averaged to determine a monthly cost;

(10) calculate the total costs owed by each parent to the other by applying the parent's percentage of income as determined in clause (3) to the actual out-of-pocket medical costs incurred by the other parent. Add these amounts to each parent's child support obligation;

(11) calculate the total child support obligation of each parent by adding for each parent, the basic child support obligation from clause (6) and the total costs from clause (10);

(12) determine the net child support obligation by subtracting the smaller of the obligations from the larger;

(13) if Social Security benefits or veterans' benefits are received by the obligee as a

representative payee for a joint child due to the obligor's disability or retirement, subtract the amount of benefits from the obligor's net child support obligation, if any;

(14) determine the portion of the calculated child support obligation the obligor has the ability to pay or the minimum support obligation as provided in section 518.724; and

(15) the final child support order shall separately designate the amount owed for basic support, child care support, and medical support.

Sec. 17. [518.7131] [TEMPORARY SUPPORT.]

Temporary support may be awarded as provided in section 518.131.

Sec. 18. [518.714] [DEVIATIONS FROM CHILD SUPPORT GUIDELINES.]

Subdivision 1. [GENERAL FACTORS.] Among other reasons, deviation from the presumptive guideline amount is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the extraordinary or diminished guidelines:

(1) all earnings, income circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 518.7123, paragraph (b), clause (2);

(2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;

(4) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(5) the parents' debts as provided in subdivision 2; and

(6) the obligor's total payments for court-ordered child support exceed the limitations set forth in section 571.922.

Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.741;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court may consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the original debt amount, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(b) A schedule prepared under paragraph (a), clause (3), must contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(c) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support must increase automatically to the level ordered by the court. This section does not prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(d) If payment of debt is ordered pursuant to this section, the payment must be ordered to be in the nature of child support.

Subd. 3. [EVIDENCE.] The court may receive evidence on the factors in this section to determine if the guidelines should be exceeded or modified in a particular case.

Subd. 4. [PAYMENTS ASSIGNED TO PUBLIC AUTHORITY.] If the child support payments are assigned to the public authority under section 256.741, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

Subd. 5. [JOINT LEGAL CUSTODY.] An award of joint legal custody is not a reason for deviation from the guidelines.

Subd. 6. [SELF-SUPPORT LIMITATION.] If, after payment of income and payroll taxes, the obligor can establish that they do not have enough for the self-support reserve, a downward deviation may be allowed.

Sec. 19. [518.715] [WRITTEN FINDINGS.]

Subdivision 1. [NO DEVIATION.] If the court does not deviate from the guidelines, the court must make written findings concerning the amount of the parties' income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the child support determination.

Subd. 2. [DEVIATION.] (a) If the court deviates from the guidelines, the court must make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, must specifically address how the deviation serves the best interests of the child; and

(b) Determine each parent's gross income.

Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court must review stipulations presented to it for conformity to the guidelines. The court is not required to conduct a hearing, but the parties must provide sufficient documentation of gross income.

Sec. 20. [518.716] [GUIDELINES REVIEW.]

No later than 2006 and every four years after that, the Department of Human Services must conduct a review of the child support guidelines.

Sec. 21. [518.717] [NONJOINT CHILDREN.]

(a) When either or both parents of the joint child subject to this determination are legally responsible for a nonjoint child who resides in that parent's household, or a nonjoint child to whom or on whose behalf a parent owes an ongoing child support obligation under a court or administrative order, a credit for this obligation shall be calculated under this section.

(b) Determine the modified gross income for each parent by subtracting from a parent's gross income the amount of any spousal support a court orders that parent to pay, and adding to a parent's gross income any spousal support the parent is entitled to receive.

(c) Using the guideline as established in section 518.725, determine the basic child support obligation for the nonjoint child or children who actually reside in the parent's household, by using the gross income of the parent for whom the credit is being calculated, and using the number of nonjoint children actually in the parent's immediate household. If the number of nonjoint children to be used for the determination is greater than two, the determination shall be made using the number two instead of the greater number.

(d) The credit for nonjoint children shall be 50 percent of the guideline amount from paragraph (c), plus the amount of any existing support order for other nonjoint children.

Sec. 22. [518.718] [SOCIAL SECURITY OR VETERANS' BENEFIT PAYMENTS RECEIVED ON BEHALF OF THE CHILD.]

(a) The amount of the monthly Social Security benefits or apportioned veterans' benefits received by the child or on behalf of the child shall be added to the gross income of the parent for whom the disability or retirement benefit was paid.

(b) The amount of the monthly survivors' and dependents' educational assistance received by the child or on behalf of the child shall be added to the gross income of the parent for whom the disability or retirement benefit was paid.

(c) If the Social Security or apportioned veterans' benefits are paid on behalf of the obligor, and are received by the obligee as a representative payee for the child or by the child attending school, then the amount of the benefits may also be subtracted from the obligor's net child support obligation as calculated pursuant to section 518.713.

(d) If the survivors' and dependents' educational assistance is paid on behalf of the obligor, and is received by the obligee as a representative payee for the child or by the child attending school, then the amount of the assistance shall also be subtracted from the obligor's net child support obligation as calculated pursuant to section 518.713.

Sec. 23. [518.719] [MEDICAL SUPPORT.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to sections 518.712 to 518.773.

(a) "Health care coverage" means health care benefits that are provided by a health plan. Health care coverage does not include any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan meeting the definition under section 62A.011, subdivision 3, a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to 43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated service network licensed under chapter 62N. Health plan includes plans:

(1) provided on an individual and group basis;

(2) provided by an employer or union;

(3) purchased in the private market; and

(4) available to a person eligible to carry insurance for the joint child.

Health plan includes a plan providing for dependent-only dental or vision coverage and a plan provided through a party's spouse or parent.

(d) "Medical support" means providing health care coverage for a joint child by carrying health care coverage for the joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the joint child.

(e) "National medical support notice" means an administrative notice issued by the public authority to enforce health insurance provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32, in cases where the public authority provides support enforcement services.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a joint child's reasonable and necessary health-related expenses if the joint child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a joint child's reasonable and necessary health-related expenses if a joint child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, and prescription eyeglasses and contact lenses but not over-the-counter medications.

Subd. 2. [ORDER.] (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and Social Security numbers of the parents and the joint child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) whether appropriate health care coverage for the joint child is available and, if so, state:

(i) which party must carry health care coverage;

(ii) the cost of premiums and how the cost is allocated between the parties;

(iii) how unreimbursed expenses will be allocated and collected by the parties; and

(iv) the circumstances, if any, under which the obligation to provide health care coverage for the joint child will shift from one party to the other;

(3) if appropriate health care coverage is not available for the joint child, whether a contribution for medical support is required; and

(4) whether the amount ordered for medical support is subject to a cost-of-living adjustment under section 518.641.

Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE COVERAGE.] (a) In determining whether a party has appropriate health care coverage for the joint child, the court must evaluate the health plan using the following factors:

(1) accessible coverage. Dependent health care coverage is accessible if the covered joint child can obtain services from a health plan provider with reasonable effort by the parent with whom the joint child resides. Health care coverage is presumed accessible if:

(i) primary care coverage is available within 30 minutes or 30 miles of the joint child's residence and specialty care coverage is available within 60 minutes or 60 miles of the joint child's residence;

(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to delay coverage unduly;

(2) comprehensive coverage. Dependent health care coverage is comprehensive if it includes, at a minimum, medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parties have health care coverage that meets the minimum requirements, the court must determine which health care coverage is more comprehensive by considering whether the coverage includes:

(i) basic dental coverage;

(ii) orthodontia;

(iii) eyeglasses;

(iv) contact lenses;

(v) mental health services; or

(vi) substance abuse treatment;

(3) affordable coverage. Dependent health care coverage is affordable if it is reasonable in cost; and

(4) the joint child's special medical needs, if any.

(b) If both parties have health care coverage available for a joint child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the presumed appropriate health care coverage for the joint child.

Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a joint child is presently enrolled in health care coverage, the court must order that the parent who currently has the joint child enrolled continue that enrollment unless the parties agree otherwise or a party requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a joint child is not presently enrolled in health care coverage, upon motion of a party or the public authority, the court must determine whether one or both parties have appropriate health care coverage for the joint child and order the party with appropriate health care coverage available to carry the coverage for the joint child.

(c) If only one party has appropriate health care coverage available, the court must order that party to carry the coverage for the joint child.

(d) If both parties have appropriate health care coverage available, the court must order the parent with whom the joint child resides to carry the coverage for the joint child, unless:

(1) either party expresses a preference for coverage available through the parent with whom the joint child does not reside;

(2) the parent with whom the joint child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the joint child does not reside extreme hardship; or

(3) the parents agree to provide coverage and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine which party has the most appropriate coverage available and order that party to carry coverage for the joint child. If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parties' health care coverage for the joint child is comparable with regard to accessibility and comprehensiveness, the court must presume that the party with the least costly health care coverage to carry coverage for the joint child.

(f) If neither party has appropriate health care coverage available, the court must order the parents to:

(1) contribute toward the actual health care costs of the joint children based on a pro rata share; or

(2) if the joint child is receiving any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L, the parent with whom the joint child does not reside shall

contribute a monthly amount toward the actual cost of medical assistance under chapter 256B or MinnesotaCare under chapter 256L. The amount of the contribution of the noncustodial parent is the amount the custodial parent would pay for the child's premiums if the custodial parent's income meets the eligibility requirements for public coverage. For purposes of determining the premium amount, a custodial parent's household size is equal to the parent plus the child who is the subject of the child support order. The court may order the parent with whom the child resides to apply for public coverage for the child.

(g) A presumption of no less than $50 per month must be applied to the actual health care costs of the joint children or to the cost of health care coverage.

(h) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly adjusted gross income.

(b) If a party owes a joint child support obligation for a child and is ordered to carry health care coverage for the joint child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a joint child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the contributing party's child support payment must be increased by the amount of the contribution.

(d) If the party ordered to carry health care coverage for the joint child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the joint child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the joint child.

(e) If a party ordered to carry health care coverage for the joint child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined income, unless the parties agree otherwise.

(f) If a party ordered to carry health care coverage for the joint child is required to enroll in a health plan so that the joint child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the joint child must not be allocated between the parties.

Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER, UNION, OR HEALTH CARRIER.] (a) The public authority must forward a copy of the national medical support notice or court order for health care coverage to the party's employer within two business days after the date the party is entered into the work reporting system under section 256.998.

(b) The public authority or a party seeking to enforce an order for health care coverage must forward a copy of the national medical support notice or court order to the obligor's employer or union, or to the health carrier under the following circumstances:

(1) the party ordered to carry health care coverage for the joint child fails to provide written proof to the other party or the public authority, within 30 days of the effective date of the court order, that the party has applied for health care coverage for the joint child;

(2) the party seeking to enforce the order or the public authority gives written notice to the party ordered to carry health care coverage for the joint child of its intent to enforce medical

support. The party seeking to enforce the order or public authority must mail the written notice to the last known address of the party ordered to carry health care coverage for the joint child; and

(3) the party ordered to carry health care coverage for the joint child fails, within 15 days after the date on which the written notice under clause (2) was mailed, to provide written proof to the other party or the public authority that the party has applied for health care coverage for the joint child.

(c) The public authority is not required to forward a copy of the national medical support notice or court order to the obligor's employer or union, or to the health carrier, if the court orders health care coverage for the joint child that is not employer-based or union-based coverage.

Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer or union must forward the national medical support notice or court order to its health plan within 20 business days after the date on the national medical support notice or after receipt of the court order.

(b) Upon determination by an employer's or union's health plan administrator that a joint child is eligible to be covered under the health plan, the employer or union and health plan must enroll the joint child as a beneficiary in the health plan, and the employer must withhold any required premiums from the income or wages of the party ordered to carry health care coverage for the joint child.

(c) If enrollment of the party ordered to carry health care coverage for a joint child is necessary to obtain dependent health care coverage under the plan, and the party is not enrolled in the health plan, the employer or union must enroll the party in the plan.

(d) Enrollment of dependents and, if necessary, the party ordered to carry health care coverage for the joint child must be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies under section 62A.048.

(e) Failure of the party ordered to carry health care coverage for the joint child to execute any documents necessary to enroll the dependent in the health plan does not affect the obligation of the employer or union and health plan to enroll the dependent in a plan. Information and authorization provided by the public authority, or by a party or guardian, is valid for the purposes of meeting enrollment requirements of the health plan.

(f) An employer or union that is included under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), may not deny enrollment to the joint child or to the parent if necessary to enroll the joint child based on exclusionary clauses described in section 62A.048.

(g) A new employer or union of a party who is ordered to provide health care coverage for a joint child must enroll the joint child in the party's health plan as required by a national medical support notice or court order.

Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan administrator receives a completed national medical support notice or court order, the plan administrator must notify the parties, and the public authority if the public authority provides support enforcement services, within 40 business days after the date of the notice or after receipt of the court order, of the following:

(1) whether coverage is available to the joint child under the terms of the health plan and, if not, the reason why coverage is not available;

(2) whether the joint child is covered under the health plan;

(3) the effective date of the joint child's coverage under the health plan; and

(4) what steps, if any, are required to effectuate the joint child's coverage under the health plan.

(b) If the employer or union offers more than one plan and the national medical support notice

or court order does not specify the plan to be carried, the plan administrator must notify the parents and the public authority if the public authority provides support enforcement services. When there is more than one option available under the plan, the public authority, in consultation with the parent with whom the joint child resides, must promptly select from available plan options.

(c) The plan administrator must provide the parents and public authority, if the public authority provides support enforcement services, with a notice of the joint child's enrollment, description of the coverage, and any documents necessary to effectuate coverage.

(d) The health plan must send copies of all correspondence regarding the health care coverage to the parents.

(e) An insured joint child's parent's signature is a valid authorization to a health plan for purposes of processing an insurance reimbursement payment to the medical services provider or to the parent, if medical services have been prepaid by that parent.

Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or union that willfully fails to comply with the order or notice is liable for any uninsured medical expenses incurred by the dependents while the dependents were eligible to be enrolled in the health plan and for any other premium costs incurred because the employer or union willfully failed to comply with the order or notice.

(b) An employer or union that fails to comply with the order or notice is subject to a contempt finding, a $250 civil penalty under section 518.615, and is subject to a civil penalty of $500 to be paid to the party entitled to reimbursement or the public authority. Penalties paid to the public authority are designated for child support enforcement services.

Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest a joint child's enrollment in a health plan on the limited grounds that the enrollment is improper due to mistake of fact or that the enrollment meets the requirements of section 518.145.

(b) If the party chooses to contest the enrollment, the party must do so no later than 15 days after the employer notifies the party of the enrollment by doing the following:

(1) filing a motion in district court or according to section 484.702 and the expedited child support process rules if the public authority provides support enforcement services;

(2) serving the motion on the other party and public authority if the public authority provides support enforcement services; and

(3) securing a date for the matter to be heard no later than 45 days after the notice of enrollment.

(c) The enrollment must remain in place while the party contests the enrollment.

Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE; COVERAGE OPTIONS.] (a) Unless a court order provides otherwise, a child for whom a party is required to provide health care coverage under this section must be covered as a dependent of the party until the child is emancipated, until further order of the court, or as consistent with the terms of the coverage.

(b) The health carrier, employer, or union may not disenroll or eliminate coverage for the child unless:

(1) the health carrier, employer, or union is provided satisfactory written evidence that the court order is no longer in effect;

(2) the joint child is or will be enrolled in comparable health care coverage through another health plan that will take effect no later than the effective date of the disenrollment;

(3) the employee is no longer eligible for dependent coverage; or

(4) the required premium has not been paid by or on behalf of the joint child.

(c) The health plan must provide 30 days' written notice to the joint child's parents, and the public authority if the public authority provides support enforcement services, before the health plan disenrolls or eliminates the joint child's coverage.

(d) A joint child enrolled in health care coverage under a qualified medical child support order, including a national medical support notice, under this section is a dependent and a qualified beneficiary under the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon expiration of the order, the joint child is entitled to the opportunity to elect continued coverage that is available under the health plan. The employer or union must provide notice to the parties and the public authority, if it provides support services, within ten days of the termination date.

(e) If the public authority provides support enforcement services and a plan administrator reports to the public authority that there is more than one coverage option available under the health plan, the public authority, in consultation with the parent with whom the joint child resides, must promptly select coverage from the available options.

Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court must require the parent with whom the joint child does not reside to provide dependent health care coverage for the benefit of the parent with whom the joint child resides if the parent is ordered to provide dependent health care coverage for the parties' joint child and adding the other parent to the coverage results in no additional premium cost.

Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public authority provides support enforcement services, the parties must provide the public authority with the following information:

(1) information relating to dependent health care coverage or public coverage available for the benefit of the joint child for whom support is sought, including all information required to be included in a medical support order under this section;

(2) verification that application for court-ordered health care coverage was made within 30 days of the court's order; and

(3) the reason that a joint child is not enrolled in court-ordered health care coverage, if a joint child is not enrolled in coverage or subsequently loses coverage.

(b) Upon request from the public authority under section 256.978, an employer, union, or plan administrator, including an employer subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), must provide the public authority the following information:

(1) information relating to dependent health care coverage available to a party for the benefit of the joint child for whom support is sought, including all information required to be included in a medical support order under this section; and

(2) information that will enable the public authority to determine whether a health plan is appropriate for a joint child, including, but not limited to, all available plan options, any geographic service restrictions, and the location of service providers.

(c) The employer, union, or plan administrator must not release information regarding one party to the other party. The employer, union, or plan administrator must provide both parties with insurance identification cards and all necessary written information to enable the parties to utilize the insurance benefits for the covered dependent.

(d) The public authority is authorized to release to a party's employer, union, or health plan information necessary to verify availability of dependent health care coverage, or to establish, modify, or enforce medical support.

(e) An employee must disclose to an employer if medical support is required to be withheld

under this section and the employer must begin withholding according to the terms of the order and under section 518.6111. If an employee discloses an obligation to obtain health care coverage and coverage is available through the employer, the employer must make all application processes known to the individual and enroll the employee and dependent in the plan.

Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public authority must take necessary steps to establish and enforce an order for medical support if the joint child receives public assistance or a party completes an application for services from the public authority under section 518.551, subdivision 7.

Subd. 15. [ENFORCEMENT.] (a) Remedies available for collecting and enforcing child support apply to medical support.

(b) For the purpose of enforcement, the following are additional support:

(1) the costs of individual or group health or hospitalization coverage;

(2) dental coverage;

(3) medical costs ordered by the court to be paid by either party, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) liabilities established under this subdivision.

(c) A party who fails to carry court-ordered dependent health care coverage is liable for the joint child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 518.64, subdivision 2.

(d) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party owes no joint child support obligation for a child and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the obligor is subject to an offset under subdivision 5 or income withholding under section 518.6111.

(b) If a party's court-ordered health care coverage for the joint child terminates and the joint child is not enrolled in other health care coverage or public coverage, and a modification motion is not pending, the public authority may remove the offset to a party's child support obligation or terminate income withholding instituted against a party under section 518.6111. The public authority must provide notice to the parties of the action.

(c) A party may contest the public authority's action to remove the offset to the child support obligation or terminate income withholding if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing the offset or terminating income withholding is appropriate and, if appropriate, the effective date for the removal or termination.

(d) If the party does not request a hearing, the district court or child support magistrate must order the offset or income withholding termination effective the first day of the month following termination of the joint child's health care coverage.

Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.]

(a) A party must initiate a request for reimbursement of unreimbursed and uninsured medical expenses within two years of the date that the party incurred the unreimbursed or uninsured medical expenses. The time period in this paragraph does not apply if the location of the other party is unknown.

(b) A party seeking reimbursement of unreimbursed and uninsured medical expenses must mail a written notice of intent to collect the expenses and a copy of an affidavit of health care expenses to the other party at the other party's last known address.

(c) The written notice must include a statement that the party has 30 days from the date the notice was mailed to (1) pay in full; (2) enter a payment agreement; or (3) file a motion requesting a hearing contesting the matter. If the public authority provides support enforcement services, the written notice also must include a statement that the requesting party must submit the amount due to the public authority for collection.

(d) The affidavit of health care expenses must itemize and document the joint child's unreimbursed or uninsured medical expenses and include copies of all bills, receipts, and insurance company explanations of benefits.

(e) If the public authority provides support enforcement services, the party seeking reimbursement must send to the public authority a copy of the written notice, the original affidavit, and copies of all bills, receipts, and insurance company explanations of benefits.

(f) If the party does not respond to the request for reimbursement within 30 days, the party seeking reimbursement or public authority, if the public authority provides support enforcement services, must commence an enforcement action against the party under subdivision 18.

(g) The public authority must serve the other party with a notice of intent to enforce unreimbursed and uninsured medical expenses and file an affidavit of service by mail with the district court administrator. The notice must state that, unless the party (1) pays in full; (2) enters into a payment agreement; or (3) files a motion contesting the matter within 14 days of service of the notice, the public authority will commence enforcement of the expenses as medical support arrears under subdivision 18.

(h) If the party files a timely motion for a hearing contesting the requested reimbursement, the contesting party must schedule a hearing in district court or in the expedited child support process if section 484.702 applies. The contesting party must provide the party seeking reimbursement and the public authority, if the public authority provides support enforcement services, with written notice of the hearing at least 14 days before the hearing by mailing notice of the hearing to the public authority and the party at the party's last known address. The party seeking reimbursement must file the original affidavit of health care expenses with the court at least five days before the hearing. Based upon the evidence presented, the district court or child support magistrate must determine liability for the expenses and order that the liable party is subject to enforcement of the expenses as medical support arrears under subdivision 18.

Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT ARREARS.] (a) If a party liable for unreimbursed and uninsured medical expenses owes a child support obligation to the party seeking reimbursement of the expenses, the expenses must be collected as medical support arrears.

(b) If a party liable for unreimbursed and uninsured medical expenses does not owe a child support obligation to the party seeking reimbursement, and the party seeking reimbursement owes the liable party basic support arrears, the liable party's medical support arrears must be deducted from the amount of the basic support arrears.

(c) If a liable party owes medical support arrears after deducting the amount owed from the amount of the child support arrears owed by the party seeking reimbursement, it must be collected as follows:

(1) if the party seeking reimbursement owes a child support obligation to the liable party, the child support obligation must be reduced by 20 percent until the medical support arrears are satisfied;

(2) if the party seeking reimbursement does not owe a child support obligation to the liable party, the liable party's income must be subject to income withholding under section 518.6111 for an amount required under section 518.553 until the medical support arrears are satisfied; or

(3) if the party seeking reimbursement does not owe a child support obligation, and income withholding under section 518.6111 is not available, payment of the medical support arrears must be required under a payment agreement under section 518.553.

(d) If a liable party fails to enter into or comply with a payment agreement, the party seeking reimbursement or the public authority, if it provides support enforcement services, may schedule a hearing to have a court order payment. The party seeking reimbursement or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.

Sec. 24. [518.72] [CHILD CARE SUPPORT.]

Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed to by the parties and approved by the court, the court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly adjusted gross income. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child. The Department of Human Services shall develop tables to calculate the applicable credit based upon the custodial parent's adjusted gross income.

Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's adjusted gross income meets the income eligibility requirements for child care assistance under the basic sliding fee program under chapter 119B, the court must order the obligor to pay the lesser of the following amounts:

(1) the amount of the obligor's monthly co-payment for child care assistance under the basic sliding fee schedule established by the commissioner of education under chapter 119B, based on an obligor's monthly adjusted gross income and the size of the obligor's household provided that the obligee is actually receiving child care assistance under the basic sliding fee program. For purposes of this subdivision, the obligor's household includes the obligor and the number of joint children for whom child support is being ordered; or

(2) the amount of the obligor's child care obligation under subdivision 1.

(b) The commissioner of human services must publish a table with the child care assistance basic sliding fee amounts and update the table for changes to the basic sliding fee schedule by July 1 of each year.

Subd. 3. [DETERMINING COSTS.] (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518.641.

(d) The court may allow the parent with whom the joint child does not reside to care for the joint child while the parent with whom the joint child resides is working or attending school, as provided in section 518.175, subdivision 8. Allowing the parent with whom the joint child does not reside to care for the joint child under section 518.175, subdivision 8, is not a reason to deviate from the guidelines.

Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order provides for child care expenses and the public authority provides child support enforcement services, the public authority must suspend collecting the amount allocated for child care expenses when:

(1) either party informs the public authority that no child care costs are being incurred; and

(2) the public authority verifies the accuracy of the information with the other party.

The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed.

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension or resumption of the collection of child care expenses. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518.64.

Sec. 25. [518.722] [PARENTING EXPENSE ADJUSTMENT.]

(a) This section shall apply when the amount of parenting time granted to an obligor is ten percent or greater. Every child support order shall specify the total percent of parenting time granted to each parent.

(b) The obligor shall be entitled to a parenting expense adjustment calculated as follows:

(1) find the adjustment percentage corresponding to the percentage of parenting time allowed to the obligor below:

	Percentage Range of Parenting Time	Adjustment Percentage
(i)	less than 10 percent	no adjustment
(ii)	10 percent to 45 percent	12 percent
(iii)	45.1 percent to 50 percent	presume parenting time is equal

(2) multiply the adjustment percentage by the obligor's basic child support obligation to arrive at the parenting expense adjustment.

(c) Subtract the parenting expense adjustment from the obligor's basic child support obligation. The result is the obligor's obligation after parenting expense adjustment.

(d) If the parenting time is equal, the expenses for the children are equally shared, and the adjusted gross incomes of the parents also are equal, no support shall be paid.

(e) If the parenting time is equal but the parents' adjusted gross incomes are not equal, the parent having the greater adjusted gross income shall be obligated for basic child support, calculated as follows:

(1) multiply the combined basic support by 1.5;

(2) prorate the basic child support obligation between the parents, subtract the lower amount from the higher amount and divide the balance in half; and

(3) the resulting figure is the obligation after parenting expense adjustment for the parent with the greater adjusted gross income.

(f) This parenting expense adjustment reflects the presumption that while exercising parenting time, a parent is responsible for and incurs costs of caring for the child, including, but not limited to, food, transportation, recreation, and household expenses.

Sec. 26. [518.724] [ABILITY TO PAY; SELF-SUPPORT ADJUSTMENT.]

It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, follow the procedure set out in this section:

(1) calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to the percent of the federal poverty guidelines used to determine the MFIP transitional standard for one person from the obligor's gross income;

(2) compare the obligor's income available for support to the amount of support calculated as per section 518.713, clauses (1) to (15). The amount of child support that is presumed to be correct as defined in section 518.713 is the lesser of these two amounts;

(3) this section does not apply to an incarcerated obligor;

(4) if the obligor's child support is reduced under clause (2), then the court must apply the reduction to the child support obligation in the following order:

(i) medical support obligation;

(ii) child support obligation; and

(iii) basic support obligation; and

(5) [MINIMUM BASIC SUPPORT AMOUNT.] if the obligor's income available for support is less than the self-support reserve, then the court must order minimum support as follows:

(i) for one or two children, the obligor's basic support obligation is $50 per month;

(ii) for three or four children, the obligor's basic support obligation is $75 per month; and

(iii) for five or more children, the obligor's basic support obligation is $100 per month.

If the court orders the obligor to pay the minimum basic support amount under this paragraph, the obligor is presumed unable to pay child care support and medical support.

If the court finds the obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this paragraph does not apply.

Sec. 27. [518.725] [GUIDELINE USED IN CHILD SUPPORT DETERMINATIONS.]

Subdivision 1. [DETERMINATION OF SUPPORT OBLIGATION.] (a) The guideline in this section is a rebuttable presumption and shall be used in any judicial or administrative proceeding to establish or modify a support obligation under chapter 518.

(b) The basic child support obligation shall be determined by referencing the guideline for the appropriate number of joint children and the combined adjusted gross income of the parents.

(c) If a child is not in the custody of either parent and a support order is sought against one or both parents, the basic child support obligation shall be determined by referencing the guideline for the appropriate number of joint children, and the parent's individual adjusted gross income, not the combined adjusted gross income of the parents.

(d) For combined adjusted gross incomes exceeding $15,000 per month, the presumed basic child support obligations shall be as for parents with combined adjusted gross income of $15,000 per month. A basic child support obligation in excess of this level may be demonstrated for those reasons set forth in section 518.714.

Subd. 2. [BASIC SUPPORT; GUIDELINE.] Unless otherwise agreed to by the parents and approved by the court, when establishing basic support, the court must order that basic support be divided between the parents based on their proportionate share of the parents' combined monthly income, as determined under section 518.713. Basic support must be computed using the following guideline:

Parents' Combined Adjusted Gross Income	Number of Children					
	One	Two	Three	Four	Five	Six
$0- $799	$50	$50	$75	$75	$100	$100
800- 899	80	129	149	173	201	233
900- 999	90	145	167	194	226	262
1,000- 1,099	116	161	186	216	251	291
1,100- 1,199	145	205	237	275	320	370
1,200- 1,299	177	254	294	341	396	459
1,300- 1,399	212	309	356	414	480	557
1,400- 1,499	251	368	425	493	573	664
1,500- 1,599	292	433	500	580	673	780
1,600- 1,699	337	502	580	673	781	905
1,700- 1,799	385	577	666	773	897	1,040
1,800- 1,899	436	657	758	880	1,021	1,183
1,900- 1,999	490	742	856	994	1,152	1,336
2,000- 2,099	516	832	960	1,114	1,292	1,498
2,100- 2,199	528	851	981	1,139	1,320	1,531
2,200- 2,299	538	867	1,000	1,160	1,346	1,561
2,300- 2,399	546	881	1,016	1,179	1,367	1,586
2,400- 2,499	554	893	1,029	1,195	1,385	1,608
2,500- 2,599	560	903	1,040	1,208	1,400	1,625
2,600- 2,699	570	920	1,060	1,230	1,426	1,655
2,700- 2,799	580	936	1,078	1,251	1,450	1,683
2,800- 2,899	589	950	1,094	1,270	1,472	1,707
2,900- 2,999	596	963	1,109	1,287	1,492	1,730
3,000- 3,099	603	975	1,122	1,302	1,509	1,749
3,100- 3,199	613	991	1,141	1,324	1,535	1,779
3,200- 3,299	623	1,007	1,158	1,344	1,558	1,807
3,300- 3,399	632	1,021	1,175	1,363	1,581	1,833
3,400- 3,499	640	1,034	1,190	1,380	1,601	1,857
3,500- 3,599	648	1,047	1,204	1,397	1,621	1,880
3,600- 3,699	657	1,062	1,223	1,418	1,646	1,909
3,700- 3,799	667	1,077	1,240	1,439	1,670	1,937
3,800- 3,899	676	1,018	1,257	1,459	1,693	1,963
3,900- 3,999	684	1,104	1,273	1,478	1,715	1,988
4,000- 4,099	692	1,116	1,288	1,496	1,736	2,012
4,100- 4,199	701	1,132	1,305	1,516	1,759	2,039
4,200- 4,299	710	1,147	1,322	1,536	1,781	2,064
4,300- 4,399	718	1,161	1,338	1,554	1,802	2,088
4,400- 4,499	726	1,175	1,353	1,572	1,822	2,111
4,500- 4,599	734	1,184	1,368	1,589	1,841	2,133
4,600- 4,699	743	1,200	1,386	1,608	1,864	2,160
4,700- 4,799	753	1,215	1,402	1,627	1,887	2,186
4,800- 4,899	762	1,231	1,419	1,645	1,908	2,212
4,900- 4,999	771	1,246	1,435	1,663	1,930	2,236
5,000- 5,099	780	1,260	1,450	1,680	1,950	2,260
5,100- 5,199	788	1,275	1,468	1,701	1,975	2,289
5,200- 5,299	797	1,290	1,485	1,722	1,999	2,317
5,300- 5,399	805	1,304	1,502	1,743	2,022	2,345
5,400- 5,499	812	1,318	1,518	1,763	2,046	2,372
5,500- 5,599	820	1,331	1,535	1,782	2,068	2,398
5,600- 5,699	829	1,346	1,551	1,801	2,090	2,424
5,700- 5,799	838	1,357	1,568	1,819	2,111	2,449

5,800- 5,899	847	1,376	1,583	1,837	2,132	2,473
5,900- 5,999	856	1,390	1,599	1,855	2,152	2,497
6,000- 6,099	864	1,404	1,614	1,872	2,172	2,520
6,100- 6,199	874	1,419	1,631	1,892	2,195	2,546
6,200- 6,299	883	1,433	1,645	1,912	2,217	2,572
6,300- 6,399	892	1,448	1,664	1,932	2,239	2,597
6,400- 6,499	901	1,462	1,682	1,951	2,260	2,621
6,500- 6,599	910	1,476	1,697	1,970	2,282	2,646
6,600- 6,699	919	1,490	1,713	1,989	2,305	2,673
6,700- 6,799	927	1,505	1,730	2,009	2,328	2,700
6,800- 6,899	936	1,519	1,746	2,028	2,350	2,727
6,900- 6,999	944	1,533	1,762	2,047	2,379	2,753
7,000- 7,099	952	1,547	1,778	2,065	2,394	2,779
7,100- 7,199	961	1,561	1,795	2,085	2,417	2,805
7,200- 7,299	971	1,574	1,812	2,104	2,439	2,830
7,300- 7,399	980	1,587	1,828	2,123	2,462	2,854
7,400- 7,499	989	1,600	1,844	2,142	2,483	2,879
7,500- 7,599	998	1,613	1,860	2,160	2,505	2,903
7,600- 7,699	1,006	1,628	1,877	2,180	2,528	2,929
7,700- 7,799	1,015	1,643	1,894	2,199	2,550	2,955
7,800- 7,899	1,023	1,658	1,911	2,218	2,572	2,981
7,900- 7,999	1,032	1,673	1,928	2,237	2,594	3,007
8,000- 8,099	1,040	1,688	1,944	2,256	2,616	3,032
8,100- 8,199	1,048	1,703	1,960	2,274	2,637	3,057
8,200- 8,299	1,056	1,717	1,976	2,293	2,658	3,082
8,300- 8,399	1,064	1,731	1,992	2,311	2,679	3,106
8,400- 8,499	1,072	1,746	2,008	2,328	2,700	3,130
8,500- 8,599	1,080	1,760	2,023	2,346	2,720	3,154
8,600- 8,699	1,092	1,780	2,047	2,374	2,752	3,191
8,700- 8,799	1,105	1,801	2,071	2,401	2,784	3,228
8,800- 8,899	1,118	1,822	2,094	2,429	2,816	3,265
8,900- 8,999	1,130	1,842	2,118	2,456	2,848	3,302
9,000- 9,099	1,143	1,863	2,142	2,484	2,880	3,339
9,100- 9,199	1,156	1,884	2,166	2,512	2,912	3,376
9,200- 9,299	1,168	1,904	2,190	2,539	2,944	3,413
9,300- 9,399	1,181	1,925	2,213	2,567	2,976	3,450
9,400- 9,499	1,194	1,946	2,237	2,594	3,008	3,487
9,500- 9,599	1,207	1,967	2,261	2,622	3,040	3,525
9,600- 9,699	1,219	1,987	2,285	2,650	3,072	3,562
9,700- 9,799	1,232	2,008	2,309	2,677	3,104	3,599
9,800- 9,899	1,245	2,029	2,332	2,705	3,136	3,636
9,900- 9,999	1,257	2,049	2,356	2,732	3,168	3,673
10,000-10,099	1,270	2,070	2,380	2,760	3,200	3,710
10,100-10,199	1,283	2,091	2,404	2,788	3,232	3,747
10,200-10,299	1,295	2,111	2,428	2,815	3,264	3,784
10,300-10,399	1,308	2,132	2,451	2,843	3,296	3,821
10,400-10,499	1,321	2,153	2,475	2,870	3,328	3,858
10,500-10,599	1,334	2,174	2,499	2,898	3,360	3,896
10,600-10,699	1,346	2,194	2,523	2,926	3,392	3,933
10,700-10,799	1,359	2,215	2,547	2,953	3,424	3,970
10,800-10,899	1,372	2,236	2,570	2,981	3,456	4,007
10,900-10,999	1,384	2,256	2,594	3,008	3,488	4,044
11,000-11,099	1,397	2,277	2,618	3,036	3,520	4,081
11,100-11,199	1,410	2,298	2,642	3,064	3,552	4,118

11,200-11,299	1,422	2,318	2,666	3,091	3,584	4,155
11,300-11,399	1,435	2,339	2,689	3,119	3,616	4,192
11,400-11,499	1,448	2,360	2,713	3,146	3,648	4,229
11,500-11,599	1,461	2,381	2,737	3,174	3,680	4,267
11,600-11,699	1,473	2,401	2,761	3,202	3,712	4,304
11,700-11,799	1,486	2,422	2,785	3,229	3,744	4,341
11,800-11,899	1,499	2,443	2,808	3,257	3,776	4,378
11,900-11,999	1,511	2,463	2,832	3,284	3,808	4,415
12,000-12,099	1,524	2,484	2,856	3,312	3,840	4,452
12,100-12,199	1,537	2,505	2,880	3,340	3,872	4,489
12,200-12,299	1,549	2,525	2,904	3,367	3,904	4,526
12,300-12,399	1,562	2,546	2,927	3,395	3,936	4,563
12,400-12,499	1,575	2,567	2,951	3,422	3,968	4,600
12,500-12,599	1,588	2,588	2,975	3,450	4,000	4,638
12,600-12,699	1,600	2,608	2,999	3,478	4,032	4,675
12,700-12,799	1,613	2,629	3,023	3,505	4,064	4,712
12,800-12,899	1,626	2,650	3,046	3,533	4,096	4,749
12,900-12,999	1,638	2,670	3,070	3,560	4,128	4,786
13,000-13,099	1,651	2,691	3,094	3,588	4,160	4,823
13,100-13,199	1,664	2,712	3,118	3,616	4,192	4,860
13,200-13,299	1,676	2,732	3,142	3,643	4,224	4,897
13,300-13,399	1,689	2,753	3,165	3,671	4,256	4,934
13,400-13,499	1,702	2,774	3,189	3,698	4,288	4,971
13,500-13,599	1,715	2,795	3,213	3,726	4,320	5,009
13,600-13,699	1,727	2,815	3,237	3,754	4,352	5,046
13,700-13,799	1,740	2,836	3,261	3,781	4,384	5,083
13,800-13,899	1,753	2,857	3,284	3,809	4,416	5,120
13,900-13,999	1,765	2,877	3,308	3,836	4,448	5,157
14,000-14,009	1,778	2,898	3,332	3,864	4,480	5,194
14,100-14,199	1,791	2,919	3,356	3,892	4,512	5,231
14,200-14,299	1,803	2,939	3,380	3,919	4,544	5,268
14,300-14,399	1,816	2,960	3,403	3,947	4,576	5,305
14,400-14,499	1,829	2,981	3,427	3,974	4,608	5,342
14,500-14,599	1,842	3,002	3,451	4,002	4,640	5,380
14,600-14,699	1,854	3,022	3,475	4,030	4,672	5,417
14,700-14,799	1,867	3,043	3,499	4,057	4,704	5,454
14,800-14,899	1,880	3,064	3,522	4,085	4,736	5,491
14,900-14,999	1,892	3,084	3,546	4,112	4,768	5,528
15,000, or the amount in effect under subd. 4	1,905	3,105	3,570	4,140	4,800	5,565

Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a) The basic support obligation for parents with a combined monthly income in excess of the income limit currently in effect under subdivision 1 must be the same dollar amount as provided for parties with a combined monthly income equal to the income limit in effect under subdivision 1.

(b) A court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subdivision 1 if it finds that a child has a disability or other substantial, demonstrated need for the additional support and that the additional support will directly benefit the child.

(c) The dollar amount for the cap in subdivision 1 must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The Supreme Court must select the index for the adjustment from the indices listed in section 518.641, subdivision 1. The state court

administrator must make the changes in the dollar amounts required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

Subd. 4. [MORE THAN SIX CHILDREN.] If a child support proceeding involves more than six children, the court may derive a support order without specifically following the guidelines. However, the court must consider the basic principles encompassed by the guidelines and must consider both parents' needs, resources, and circumstances.

Subd. 5. [REPORT TO LEGISLATURE.] No later than 2006 and every four years after that, the commissioner of human services shall conduct a review of the child support guidelines.

Subd. 6. [FINDINGS; DEVIATION.] The guidelines in this section are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and shall specifically address the criteria in section 518.714 and how the deviation serves the best interest of the child. The court may deviate from the guidelines if both parties agree and the court makes written findings that it is in the best interests of the child, except that in cases where child support payments are assigned to the public agency under section 256.741, the court may deviate downward only as provided in subdivision 7 of that section. Nothing in this paragraph prohibits the court from deviating in other cases. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the required documentation of earnings.

Sec. 28. [518.729] [WORKSHEET.]

The commissioner of human services must create and publish a worksheet to assist in calculating child support under sections 518.712 to 518.729. The worksheet must not impose substantive requirements other than requirements contained in sections 518.712 to 518.729. The commissioner must update the worksheet by July 1 of each year. The commissioner must make an interactive version of the worksheet available on the Department of Human Services Web site.

Sec. 29. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT GUIDELINES.]

The commissioner of human services shall contract with a private provider to conduct an economic analysis of the child support guidelines contained in this act to evaluate whether the guidelines fairly represent the cost of raising children for the respective parental income levels, excluding medical support, child care, and education costs.

The results of the study shall be completed by no later than January 30, 2006. The private provider must have experience in evaluating or establishing child support guidelines, using the income shares approach, in other states.

Sec. 30. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall renumber the provisions of Minnesota Statutes listed in column A to the references listed in column B. The revisor shall also make necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the renumbering.

Column A	Column B
518.5513	518.741
518.553	518.743
518.57	518.745
518.575	518.747
518.585	518.749
518.5851	518.751

518.5852	518.752
518.5853	518.753
518.6111	518.755
518.612	518.757
518.614	518.759
518.615	518.761
518.616	518.763
518.617	518.765
518.618	518.767
518.6195	518.769
518.6196	518.770
518.641	518.771
518.642	518.773

Sec. 31. [APPROPRIATIONS.]

$..... is appropriated in fiscal year 2006 and $..... is appropriated in fiscal year 2007 from the general fund to the commissioner of human services to fund implementation of this act and to reimburse counties for their implementation costs. The commissioner of human services shall distribute funds to the counties for their costs of implementation based upon their total county IV-D caseload. The appropriation base in fiscal year 2008 for grants to counties shall be $.....

$..... is appropriated in fiscal year 2007 from the general fund to the supreme court administrator to fund implementation of this act. This is a onetime appropriation.

Sec. 32. [REPEALER.]

Minnesota Statutes 2004, sections 518.171; 518.54, subdivisions 2, 4, and 4a; and 518.551, subdivisions 1, 5a, 5c, and 5f, are repealed.

Sec. 33. [EFFECTIVE DATE.]

This act is effective January 1, 2007, and applies to orders adopted or modified after that date."

Delete the title and insert:

"A bill for an act relating to civil law; reforming law relating to child support; establishing criteria for support obligations; defining parents' rights and responsibilities; appropriating money; amending Minnesota Statutes 2004, sections 518.005, by adding a subdivision; 518.54, subdivisions 7, 8; 518.55, subdivision 4; 518.551, subdivisions 5, 5b; 518.62; 518.64, subdivision 2, by adding subdivisions; 518.68, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 2004, sections 518.171; 518.54, subdivisions 2, 4, 4a; 518.551, subdivisions 1, 5a, 5c, 5f."

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

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

S.F. No. 527: A bill for an act relating to local government; authorizing electric or utility special assessments exceeding standards on petition of all affected owners; amending Minnesota Statutes 2004, section 429.021, subdivision 1.

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

SECOND READING OF SENATE BILLS

S.F. Nos. 944, 1388, 1815, 893, 628, 1738, 1113, 2112, 1905, 1945, 1563, 1998, 1716, 1895, 1438, 1898 and 1368 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1820, 1650 and 2126 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Higgins moved that the name of Senator LeClair be added as a co-author to S.F. No. 1390. The motion prevailed.

Senator Wiger moved that the names of Senators Robling and Foley be added as co-authors to S.F. No. 1975. The motion prevailed.

Senator Pogemiller moved that the names of Senators Bakk and Moua be added as co-authors to S.F. No. 2206. The motion prevailed.

Senator Johnson, D.E., for Senator Olson, moved that S.F. No. 2200 be withdrawn from the Committee on Transportation and re-referred to the Committee on Finance. The motion prevailed.

Senators LeClair, Bachmann, Marko and Wiger introduced--

Senate Resolution No. 78: A Senate resolution honoring Washington County Sheriff Jim Frank on the occasion of his retirement.

Referred to the Committee on Rules and Administration.

Senator Johnson, D.E. introduced--

Senate Resolution No. 79: A Senate resolution honoring Rose Ann Inderrieden on the occasion of her retirement.

Referred to the Committee on Rules and Administration.

Senators Johnson, D.E. and Day introduced--

Senate Resolution No. 80: A Senate resolution recognizing the 25th anniversary of the Hubert H. Humphrey Fellowship Program.

Referred to the Committee on Rules and Administration.

Senators Ruud and Bakk introduced--

Senate Resolution No. 81: A Senate resolution providing for payment of certain costs of district offices in large senate districts.

Referred to the Committee on Rules and Administration.

Senator Larson introduced--

Senate Resolution No. 82: A Senate resolution congratulating Pelican Rapids High School's Gillian Bjerke on being named to the Associated Press 2005 All-State Girls' Basketball team.

Referred to the Committee on Rules and Administration.

Senator Larson introduced--

Senate Resolution No. 83: A Senate resolution congratulating Underwood High School's Ashley Samuelson on being named to the Associated Press 2005 All-State Girls' Basketball team.

Referred to the Committee on Rules and Administration.

Senators Limmer, Larson, Belanger, Olson and Pariseau introduced--

Senate Resolution No. 84: A Senate resolution recognizing Sheriff of the Year Pat McGowan.

Referred to the Committee on Rules and Administration.

Senators Kelley, Gaither, Michel, Hann and Rest introduced--

Senate Resolution No. 85: A Senate resolution congratulating the Hopkins High School Boys basketball team on winning the 2005 State High School Class AAAA Boys Basketball Tournament.

Referred to the Committee on Rules and Administration.

Senators Gerlach and Kelley introduced--

Senate Resolution No. 86: A Senate resolution recognizing the Eastview High School Boys basketball team for their accomplishments in the 2005 season.

Referred to the Committee on Rules and Administration.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Kubly introduced--

S.F. No. 2207: A bill for an act relating to agriculture; providing a mechanism for farmers to reserve seed from an agricultural crop for purposes of planting in subsequent crop years; authorizing a fee; imposing a penalty; amending Minnesota Statutes 2004, sections 21.81, by adding subdivisions; 21.87; proposing coding for new law in Minnesota Statutes, chapter 21.

Referred to the Committee on Agriculture, Veterans and Gaming.

Senator Cohen introduced--

S.F. No. 2208: A bill for an act relating to taxation; income tax; providing a film production tax credit; appropriating money; amending Minnesota Statutes 2004, section 290.06, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Murphy and Belanger introduced--

S.F. No. 2209: A bill for an act relating to sales and use tax; allowing exempt occasional sales at flea markets and similar selling events; amending Minnesota Statutes 2004, section 297A.87, subdivisions 2, 3.

Referred to the Committee on Taxes.

Senator Rest introduced--

S.F. No. 2210: A bill for an act relating to public safety; creating fire service funding act; establishing fire safety surcharge on fire premiums and assessments, with exceptions; abolishing fire insurance tax, with exceptions; proposing coding for new law in Minnesota Statutes, chapter 299F; repealing Minnesota Statutes 2004, section 297I.05, subdivision 6.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Solon, Higgins and Tomassoni introduced--

S.F. No. 2211: A bill for an act relating to human services; increasing reimbursement rates for community mental health centers and clinics; proposing coding for new law in Minnesota Statutes, chapter 256B.

Referred to the Committee on Finance.

Senator Cohen introduced--

S.F. No. 2212: A bill for an act relating to job training; providing for training to implement the Ford Motor Company Ford Production System at the Twin Cities Ford Assembly Plant; appropriating money.

Referred to the Committee on Finance.

Senator Kelley introduced--

S.F. No. 2213: A bill for an act relating to appropriations; appropriating money for bioscience marketing activities.

Referred to the Committee on Finance.

Senators Skoe, Vickerman, Pariseau and Murphy introduced--

S.F. No. 2214: A bill for an act relating to property taxation; modifying the property tax bracket for agricultural homestead property; amending Minnesota Statutes 2004, section 273.13, subdivision 23.

Referred to the Committee on Taxes.

Senators Nienow, Jungbauer, Bakk, Pariseau and Stumpf introduced--

S.F. No. 2215: A bill for an act relating to the environment; creating the Clean Waters Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; amending Minnesota Statutes 2004, section 115.071, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

Referred to the Committee on Environment and Natural Resources.

Senators Koering and McGinn introduced--

S.F. No. 2216: A bill for an act relating to consumer protection; regulating consumer credit reporting agencies; providing for the inspection of, and disclosures related to, files and information maintained by the credit reporting agency; proposing coding for new law in Minnesota Statutes, chapter 13C.

Referred to the Committee on Commerce.

Senators Koering and McGinn introduced--

S.F. No. 2217: A bill for an act relating to consumer protection; regulating consumer credit reports; providing free credit reports to victims of identity theft; proposing coding for new law in Minnesota Statutes, chapter 13C.

Referred to the Committee on Commerce.

Senators Solon, Rosen, Lourey, Nienow and Kiscaden introduced--

S.F. No. 2218: A bill for an act relating to human services; providing a disproportionate population adjustment for certain hospitals; providing a hospital payment adjustment for certain hospitals under certain circumstances; changing hospital payment adjustment provisions for diagnostic-related group payments; increasing the surcharge on criminal and traffic offenders; appropriating money; amending Minnesota Statutes 2004, sections 256.969, subdivisions 9, 23, 26; 256B.195, subdivision 3; 357.021, subdivisions 6, 7.

Referred to the Committee on Finance.

Senator Kelley introduced--

S.F. No. 2219: A bill for an act relating to taxation; requiring movants to pay for tax court transcripts; amending Minnesota Statutes 2004, section 271.07.

Referred to the Committee on Taxes.

Senator Cohen introduced--

S.F. No. 2220: A bill for an act relating to state government; providing a certain preference in state purchasing; amending Minnesota Statutes 2004, section 16C.16, by adding a subdivision.

Referred to the Committee on Finance.

Senators Pariseau, Ruud, Gerlach, LeClair and Reiter introduced--

S.F. No. 2221: A bill for an act relating to public safety; reenacting the Minnesota Citizens' Personal Protection Act of 2003; recognizing the inherent right of law-abiding citizens to self-protection through the lawful use of self-defense; providing a system under which responsible, competent adults can exercise their right to self-protection by authorizing them to obtain a permit to carry a pistol; providing criminal penalties; amending Minnesota Statutes 2004, section 624.714, subdivision 17, as reenacted.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Gerlach, Reiter and Larson introduced--

S.F. No. 2222: A bill for an act relating to human services; prohibiting certain purchases with MFIP cash grant funds; amending Minnesota Statutes 2004, section 256J.39, by adding a subdivision.

Referred to the Committee on Finance.

Senator Fischbach introduced--

S.F. No. 2223: A bill for an act relating to veterans; expanding certain postsecondary education rights; amending Minnesota Statutes 2004, section 192.502, subdivision 1.

Referred to the Committee on Agriculture, Veterans and Gaming.

Senator Berglin introduced--

S.F. No. 2224: A bill for an act relating to taxation; providing an income tax credit for contributions to health savings accounts; appropriating money; amending Minnesota Statutes 2004, section 290.06, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Metzen introduced--

S.F. No. 2225: A bill for an act relating to appropriations; appropriating money for Minnesota Public Radio.

Referred to the Committee on Finance.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 11:00 a.m., Monday, April 18, 2005. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

INDEX TO DAILY JOURNAL

Thursday, April 14, 2005

EXECUTIVE AND OFFICIAL COMMUNICATIONS

CHAPTER LAWS

MESSAGES FROM THE HOUSE AND FIRST READINGS OF HOUSE FILES

REPORTS OF COMMITTEES AND SECOND READINGS

MOTIONS AND RESOLUTIONS

INTRODUCTION AND FIRST READING OF SENATE BILLS