

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

EIGHTY-FIRST DAY

St. Paul, Minnesota, Monday, March 29, 2004

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Melvyn Budke.

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

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 2063.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2004

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1071.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 25, 2004

FIRST READING OF HOUSE BILLS

The following bill was read the first time and referred as indicated.

H.F. No. 1071: A bill for an act relating to traffic regulations; providing that violation of 60 miles per hour speed limit that does not exceed five miles per hour not be recorded on driving record; requiring the commissioner of transportation to conduct engineering and traffic investigations on certain trunk highways and adjust speed limits accordingly; amending Minnesota Statutes 2002, sections 169.14, by adding a subdivision; 169.99, subdivision 1b; 171.12, subdivision 6.

Referred to the Committee on Finance.

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. 2929, 1997, 2326, 2491, 2844, 2727 and 2026. The motion prevailed.

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

S.F. No. 2929: A bill for an act relating to human services; making changes to forensic procedures; specifying patient rights; limiting civilly committed sexual psychopathic personalities and sexually dangerous persons from patients' and residents' bills of rights; amending Minnesota Statutes 2002, sections 243.55, subdivision 1; 253B.02, by adding subdivisions; 253B.03, by adding a subdivision; 253B.18, subdivision 9; 253B.185, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 246.15, by adding a subdivision; 609.2231, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 253B.

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

Pages 4 to 6, delete section 8

Page 7, line 30, delete "9" and insert "8"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 12, delete everything after "3" and insert a period

Page 1, delete line 13

And when so amended the bill do pass and be re-referred to the Committee on Crime Prevention and Public Safety.

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

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

S.F. No. 2347: A bill for an act relating to corrections; amending the Interstate Compact for

Adult Offender Supervision by providing procedures for retaking and reincarceration of parolees and probationers; delaying the repeal of the interstate compact for the supervision of parolees and probationers to provide more transition time for adoption of rules under the new compact; amending Minnesota Statutes 2002, section 243.1605; Laws 2002, chapter 268, section 8.

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. 2790: A bill for an act relating to corrections; authorizing the Fugitive Apprehension Unit to share in certain asset forfeitures under the forfeiture law; amending Minnesota Statutes 2002, sections 609.531, subdivision 1; 609.5311, subdivisions 2, 3; 609.5312, subdivision 1; 609.5314, subdivision 1; 609.5318, subdivision 1; Minnesota Statutes 2003 Supplement, sections 609.5312, subdivisions 3, 4; 609.5317, subdivision 1.

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

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

H.F. No. 1721: A bill for an act relating to criminal justice; expanding collection of booking fees; changing procedures for return of booking fees; amending Minnesota Statutes 2002, section 641.12, subdivision 1.

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

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

S.F. No. 2499: A bill for an act relating to corrections; authorizing a five-level correctional facility classification system; amending Minnesota Statutes 2003 Supplement, section 243.53, subdivision 1.

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 re-referred

S.F. No. 2449: A bill for an act relating to townships; clarifying levy and spending authority; defining total revenue; amending Minnesota Statutes 2002, sections 365.43, subdivision 1; 365.431.

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

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

S.F. No. 1997: A bill for an act relating to the environment; modifying project environmental review; amending Minnesota Statutes 2002, section 116D.04, subdivision 5a; Minnesota Statutes 2003 Supplement, section 116D.04, subdivision 2a.

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

Delete everything after the enacting clause and insert:

"Section 1. [ENVIRONMENTAL REVIEW RULES; PUBLIC WATERS.]

The Environmental Quality Board, in consultation with the Department of Natural Resources and interested stakeholders, shall study and adopt rules pursuant to Minnesota Statutes, chapter 14, to revise the requirements for mandatory environmental assessment worksheets and mandatory environmental impact statements for projects involving residential development within the shorelands of public waters. In revising the thresholds for review and assigning the responsible governmental unit, the board must consider at least the following factors: the size of the project compared to its riparian frontage; the method by which residents of the project will have access to the water body; whether the water body borders more than one county; whether the water body now has public access; and the number of mooring spaces associated with the project. By January 15, 2005, the board must submit a copy of the proposed rules and a summary of public comments received on the rules to the committees of the senate and house of representatives with jurisdiction over natural resources and environment policy and finance. The rules may not become effective before May 23, 2005."

Delete the title and insert:

"A bill for an act relating to the environment; directing the Environmental Quality Board to study and adopt revisions to the environmental review rules relating to public waters."

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

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

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

S.F. No. 1976: A bill for an act relating to civil actions; regulating limitation periods of certain actions; enacting a uniform conflict of laws-limitations act; proposing coding for new law in Minnesota Statutes, chapter 541.

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. 1385: A bill for an act relating to employment; prohibiting broadcast employers from including noncompete provisions in employment agreements; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Page 1, line 18, delete "2003" and insert "2004"

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. 2478: A bill for an act relating to job opportunity building zones; limiting tax incentives for certain retailers; amending Minnesota Statutes 2003 Supplement, section 469.310, subdivision 11.

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

Page 2, line 10, delete the colon

Page 2, line 11, delete the paragraph coding and delete "(1)"

Page 2, line 13, delete "; and" and insert a period

Page 2, delete lines 14 to 17

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

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

S.F. No. 2326: A bill for an act relating to unemployment insurance; allowing the Perpich Center for Arts Education to elect coverage for certain positions.

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. 2898: A bill for an act relating to economic development; establishing an enterprise account for revenues and expenditures associated with the Giants Ridge recreation area; amending Minnesota Statutes 2002, section 298.221.

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

Page 2, line 5, delete everything after "operation"

Page 2, line 6, delete everything before the second "the" and insert "or lease of those facilities and from the lease, sale, or other disposition of undeveloped lands at"

Page 2, line 14, after "repair," insert "or" and delete ", or sale"

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. 2422: A bill for an act relating to the environment; modifying regulation of certain PCB wastes; amending Minnesota Statutes 2002, section 116.07, by adding a subdivision.

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

Page 1, line 11, delete "found in" and insert "under"

Page 1, line 12, delete "those provisions of"

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

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

S.F. No. 1693: A bill for an act relating to the environment; clarifying permitting for mineral tailing deposition into mine pits; amending Minnesota Statutes 2002, section 116.0717.

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

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

S.F. No. 1999: A bill for an act relating to the environment; extending the restriction on phosphorus use in fertilizers; amending Minnesota Statutes 2002, section 18C.60, subdivision 2.

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

Page 2, after line 15, insert:

"Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective January 1, 2005, and applies to fertilizer purchased at retail after August 1, 2004."

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

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

S.F. No. 2491: A bill for an act relating to insurance; creating a statewide health insurance pool for school district employees; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Page 1, line 24, delete "Pool" and insert "Plan"

Page 2, line 32, delete "Pool" and insert "Plan"

Page 2, line 36, delete "pool" and insert "plans offered by the board"

Page 3, lines 1, 11, and 12, delete "pool" and insert "plans"

Page 3, line 3, before the period, insert "and must be approved by the commissioner of commerce"

Page 3, line 4, delete "pool provided by the"

Page 3, lines 8, 19, and 24, delete "pool" and insert "board"

Page 3, line 15, delete "pool" and insert "plans" and after "include" insert "disease management and"

Page 3, after line 20, insert:

"(i) The board shall consider coordination with or the purchase of health plans through the Minnesota Comprehensive Health Association. The Minnesota Comprehensive Health Association's board of directors may consider establishment of a separate plan to purchase coverage for those enrollees who are not high risk, including public employees. The enrollee premiums shall include the Minnesota Comprehensive Health Association surcharge.

(j) The plan shall be considered a contributing member for purposes of chapter 62E and shall pay Minnesota Comprehensive Health Association assessments in accordance with section 62E.11."

Page 3, line 22, after "final" insert "proposal on the" and delete "for the pool"

Page 3, line 23, before the period, insert "and on governance requirements for the board, including staggered terms, term limits, quorum, and a plan of operation and audit provisions. The report must also include a proposal requiring the plans to be in conformance with chapters 62J, 62M, and 62Q and any legislative changes necessary to enact such conformance"

Page 3, line 27, delete "a written" and insert "an annual" and after "the" insert "commissioner of commerce and the"

Page 3, line 28, delete "on or before December 15, 2008" and insert "beginning on January 15, 2006"

Page 3, line 29, delete "pool" and insert "plan" and delete "its first three"

Page 3, line 30, delete "years" and insert "the previous year"

Page 3, line 33, delete "pool's" and insert "plan's"

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

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

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

S.F. No. 2112: A bill for an act relating to human services; authorizing an exception to the prohibition on asset transfers for certain charitable gifts; amending Minnesota Statutes 2003 Supplement, section 256B.0595, subdivisions 1, 1b.

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 2003 Supplement, section 256B.0595, subdivision 1b, is amended to read:

Subd. 1b. [PROHIBITED TRANSFERS.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after July 1, 2003, and to all transfers involving persons who apply for medical assistance on or after July 1, 2003, if the transfer occurred within 72 months before the person applies for medical assistance, except that this subdivision does not apply to transfers made prior to July 1, 2003. A person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, may not give away, sell, dispose of, or reduce ownership or control of any income, asset, or interest therein for less than fair market value for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for medical assistance services, any transfer of such income or assets for less than fair market value within 72 months before or any time after a person applies for medical assistance may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility, and the person is ineligible for medical assistance services for the period of time determined under subdivision 2b, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose or unless the transfer is permitted under subdivision 3b or 4b.

Convincing evidence of any one of the following facts shall establish that a gift that is a charitable contribution to an organization described in section 170(c) of the Internal Revenue Code of 1986, as amended, was made exclusively for a purpose other than establishing or maintaining medical assistance eligibility, unless at the time of the gift the donor or donor's spouse was receiving long-term care services, was advised by a medical professional of the need for long-term care services, or was a medical assistance applicant or recipient:

(1) the donor made one or more gifts to the same donee organization more than 180 days prior to the date of the gift in question;

(2) the gift was made to a religious organization that recognized the donor as one of its members and donors prior to and on the date of the gift; or

(3) the gift was made to an organization for which the donor had provided volunteer services, acknowledged in writing by the organization, prior to the date of the gift.

A person may alternatively establish with other convincing evidence that a charitable gift was made exclusively for a purpose other than establishing or maintaining medical assistance eligibility.

(b) This section applies to transfers to trusts. The commissioner shall determine valid trust purposes under this section. Assets placed into a trust that is not for a valid purpose shall always be considered available for the purposes of medical assistance eligibility, regardless of when the trust is established.

(c) This section applies to transfers of income or assets for less than fair market value, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized written agreement that was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any income, asset, or interest therein that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or the person's spouse while alive, based on estimated life expectancy, using the life expectancy tables employed by the supplemental security income program, or based on a shorter life expectancy if the annuitant had a medical condition that would shorten the annuitant's life expectancy and that was diagnosed before funds were placed into the annuity. The agency may request and receive a physician's statement to determine if the annuitant had a diagnosed medical condition that would shorten the annuitant's life expectancy. If so, the agency shall determine the expected value of the benefits based upon the physician's statement instead of using a life expectancy table. This section applies to an annuity described in this paragraph purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Transfers under this section shall affect determinations of eligibility for all medical assistance services or long-term care services, whichever receives federal approval."

Amend the title as follows:

Page 1, line 5, delete "subdivisions 1," 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 Betzold from the Committee on Judiciary, to which was re-referred

S.F. No. 2866: A bill for an act relating to agriculture; limiting nuisance claims against certain agricultural operations; amending Minnesota Statutes 2002, section 561.19, subdivisions 1, 2.

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

Page 2, lines 31 to 34, delete the new language and insert "For a period of two years from its established date of operation, there is a rebuttable presumption that an agricultural operation in compliance with the requirements of paragraph (a), clauses (1) to (3), is not a public or private nuisance."

Page 3, lines 21 and 22, delete "on the day following final enactment" and insert "for actions commenced on or after August 1, 2004"

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

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

S.F. No. 2844: A bill for an act relating to workers' compensation; making technical changes; modifying the definition of "personal injury" to include injury or disease resulting from certain vaccines; authorizing qualifying employees to opt to receive alternative workers' compensation benefits; amending Minnesota Statutes 2002, sections 176.011, subdivisions 15, 16; 176.081, subdivision 1; 176.092, subdivision 1a; 176.102, subdivision 3a; 176.129, subdivisions 1b, 2a, 13; 176.135, subdivisions 1, 7; 176.1351, subdivisions 3, 5, by adding a subdivision; 176.181, by adding a subdivision; 176.1812, subdivision 6; 176.185, subdivision 1; 176.231, subdivision 5; 176.238, subdivision 10; 176.391, subdivision 2; 176.83, subdivision 5.

Reports the same back with the recommendation that the bill be reported to the Senate without recommendation.

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

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

S.F. No. 2453: A bill for an act relating to motor fuels; regulating oxygenated gasoline; abolishing a fee and certain requirements and powers of Department of Commerce relating to utility measuring equipment; amending Minnesota Statutes 2002, section 239.791, subdivision 12, by adding a subdivision; repealing Minnesota Statutes 2002, sections 239.12; 239.25.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 239.791, subdivision 12, is amended to read:

Subd. 12. [EXEMPTION FOR COLLECTOR VEHICLE AND OFF-ROAD USE.] (a) A person responsible for the product may offer for sale, sell, or dispense at a retail gasoline station for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, or small engines, gasoline that is not oxygenated in accordance with subdivision 1 if the person meets the conditions in paragraphs (b) to (e). If the nonoxygenated gasoline is for use in a small engine, it must be dispensed into a can with a capacity of six or fewer gallons.

(b) The nonoxygenated gasoline must be unleaded premium grade as defined in section 239.751, subdivision 4.

(c) No more than one storage tank on the premises of the retail gasoline station may be used for storage of the nonoxygenated gasoline offered for sale, sold, or dispensed by the station.

(d) The pump stands must be posted with a permanent notice stating: "NONOXYGENATED GASOLINE. FOR USE IN COLLECTOR VEHICLES OR VEHICLES ELIGIBLE TO BE LICENSED AS COLLECTOR VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, BOATS, SNOWMOBILES, OR SMALL ENGINES ONLY."

~~(e) For a retail gasoline station located in the county of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, or Wright, a person responsible for the product must annually register with the director, on forms provided by the director, an intent to sell nonoxygenated gasoline during the period of October 1 through January 31. Such person must register on or before August 1 of each year, and must report to the director before April 1 of the following year the total number of gallons of nonoxygenated premium grade gasoline sold during the period of October 1 through January 31. Data submitted to the department under this paragraph shall be considered nonpublic data as defined in section 13.02, subdivision 13. This notice must be posted at least two feet above the ground. A retail gasoline station that sells nonoxygenated premium gasoline as defined in section 239.791, subdivision 15, must register every two years with the director, or an entity appointed by the director, on forms approved by the director, the total amount of nonoxygenated premium gasoline sold annually.~~

Sec. 2. Minnesota Statutes 2002, section 239.791, is amended by adding a subdivision to read:

Subd. 15. [EXEMPTION FOR CERTAIN BLEND PUMPS.] A person responsible for the product, who offers for sale, sells, or dispenses nonoxygenated premium gasoline under one or more of the exemptions in subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated gasoline that contains less than the minimum amount of ethanol required under subdivision 1 if all of the following conditions are met:

- (1) the blended gasoline has an octane rating of 88 or greater;
- (2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision 1 with nonoxygenated premium gasoline;
- (3) the blended gasoline contains not more than ten percent nonoxygenated premium gasoline;
- (4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the gasoline dispenser; and
- (5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is equipped to store gasoline in not more than two storage tanks.

This subdivision applies only to those persons who meet the conditions in clauses (1) through (5) on the effective date of this act and have registered with the director within three months of the effective date of this act.

Sec. 3. [REPEALER.]

Minnesota Statutes 2002, sections 239.12 and 239.25, are repealed."

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

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

S.F. No. 2068: A bill for an act relating to drainage; prohibiting the planting of trees over certain public or private tile lines; amending Minnesota Statutes 2002, section 103E.081, by adding a subdivision.

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

Page 1, line 9, after "OVER" insert "PUBLIC" and delete "LINES"

Page 1, line 10, delete "or private"

Page 1, delete line 11

Page 1, line 12, delete "another person"

Page 1, lines 13 and 14, delete "all persons who receive drainage benefits from the drain tile" and insert "the drainage authority"

Page 1, after line 14, insert:

"Sec. 2. Minnesota Statutes 2002, section 103E.081, is amended by adding a subdivision to read:

Subd. 2b. [PLANTING TREES OVER PRIVATE TILE.] A person must not knowingly plant trees over a private drain tile that provides for the drainage of land owned or leased by another person, unless the person planting the trees receives permission from all persons who receive drainage benefits from the drain tile."

Amend the title as follows:

Page 1, line 5, delete "a subdivision" and insert "subdivisions"

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. 2793: A bill for an act relating to the environment; requiring a study on the impact of off-highway vehicle use on wetlands; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 84.773, is amended to read:

84.773 [RESTRICTIONS ON OPERATION.]

Subdivision 1. [RESTRICTIONS.] (a) A person may not intentionally operate an off-highway vehicle:

- (1) on a trail on public land that is designated or signed for nonmotorized use only;
- (2) on restricted areas within public lands that are posted or where gates or other clearly visible structures are placed to prevent unauthorized motorized vehicle access; ~~or~~
- (3) except as specifically authorized by law or rule adopted by the commissioner, in type 3, 4, 5, and 8 wetlands or unfrozen public waters, as defined in section 103G.005;
- (4) except as specifically authorized by law or rule adopted by the commissioner, in a state park; in a scientific and natural area; or in a wildlife management area; or
- (5) in a calcareous fen, as identified by the commissioner.

(b) The restriction in paragraph (a), clause (3), does not apply to frozen type 8 wetlands until October 1, 2009.

(c) A person may not operate an off-highway vehicle off-road on public land or public waters with an air intake pipe that is more than six inches above the manufacturer's original air-intake pipe.

Subd. 2. [SPECIFIC USE EXEMPTIONS.] Subdivision 1 does not apply to an off-highway

vehicle being used for farming; an off-highway vehicle used for military, fire, emergency, or law enforcement purposes; a construction or logging off-highway vehicle used in the performance of its common function; an off-highway vehicle owned by or operated under contract with a utility or pipeline company, when used for work on utilities or pipelines; or a government-owned vehicle used for official business.

Subd. 3. [HUNTING AND TRAPPING EXEMPTIONS.] Subdivision 1, clause (3), does not apply to the direct crossing of type 8 wetlands by an off-highway vehicle being used by an individual on private or public lands lawfully engaged in hunting and trapping activities as described in section 84.926, subdivision 2.

Sec. 2. Minnesota Statutes 2003 Supplement, section 84.780, is amended to read:

84.780 [OFF-HIGHWAY VEHICLE DAMAGE ACCOUNT.]

(a) The off-highway vehicle damage account is created in the natural resources fund. Money in the off-highway vehicle damage account is appropriated to the commissioner of natural resources for:

(1) the repair or restoration of property damaged by the operation of off-highway vehicles in an unpermitted area after August 1, 2003; and

for (2) the costs of administration for this section.

(b) Before the commissioner may make a payment from this account, the commissioner must determine whether the damage to the applicant's property was caused by the unpermitted use of off-highway vehicles, that the applicant has made reasonable efforts to identify the responsible individual and obtain payment from the individual, and that the applicant has made reasonable efforts to prevent reoccurrence. By June 30, 2005, the commissioner of finance must transfer the remaining balance in the account to the off-highway motorcycle account under section 84.794, the off-road vehicle account under section 84.803, and the all-terrain vehicle account under section 84.927. The amount transferred to each account must be proportionate to the amounts received in the damage account from the relevant off-highway vehicle accounts.

(b) This section expires July 1, 2005.

Sec. 3. Minnesota Statutes 2003 Supplement, section 84.788, subdivision 3, is amended to read:

Subd. 3. [APPLICATION; ISSUANCE; REPORTS.] (a) Application for registration or continued registration must be made to the commissioner or an authorized deputy registrar of motor vehicles in a form prescribed by the commissioner. The form must state the name and address of every owner of the off-highway motorcycle.

(b) A person who purchases from a retail dealer an off-highway motorcycle shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary ten-day registration permit to each purchaser who applies to the dealer for registration. The dealer shall submit the completed registration applications and fees to the deputy registrar at least once each week. No fee may be charged by a dealer to a purchaser for providing the temporary permit.

(c) Upon receipt of the application and the appropriate fee, the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, a 60-day temporary receipt and shall assign a registration number that must be affixed to the motorcycle in a manner prescribed by the commissioner according to paragraph (f). A dealer subject to paragraph (b) shall provide the registration materials and temporary receipt to the purchaser within the ten-day temporary permit period.

(d) The commissioner shall develop a registration system to register vehicles under this section. A deputy registrar of motor vehicles acting under section 168.33, is also a deputy registrar of off-highway motorcycles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to ensure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with the accounting and procedural requirements.

(e) In addition to other fees prescribed by law, a filing fee of \$4.50 is charged for each off-highway motorcycle registration renewal, duplicate or replacement registration card, and replacement decal and a filing fee of \$7 is charged for each off-highway motorcycle registration and registration transfer issued by:

(1) a deputy registrar and must be deposited in the treasury of the jurisdiction where the deputy is appointed, or kept if the deputy is not a public official; or

(2) the commissioner and must be deposited in the state treasury and credited to the off-highway motorcycle account.

(f) Unless exempted in paragraph (g), the owner of an off-highway motorcycle must display a registration decal issued by the commissioner. If the motorcycle is licensed as a motor vehicle, a registration decal must be affixed on the upper left corner of the rear license plate. If the motorcycle is not licensed as a motor vehicle, the decal must be attached on the side of the motorcycle and may be attached to the fork tube. The decal must be attached in a manner so that it is visible while a rider is on the motorcycle. The issued decals must be of a size to work within the constraints of the electronic licensing system, not to exceed three inches high and three inches wide.

(g) Display of a registration decal is not required for an off-highway motorcycle:

(1) while being operated on private property; or

(2) while competing in a closed-course competition event.

Sec. 4. Minnesota Statutes 2002, section 84.798, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] ~~Unless exempted under subdivision 2, after January 1, 1995, a person may not operate and an owner may not give permission for another to operate a vehicle off road, nor may a person have an off-road vehicle not registered under chapter 168 in possession at an off-road vehicle staging area, or on lands administered by the commissioner on designated trail trails or area areas, or on off-road vehicle grant-in-aid trails and areas funded under section 84.803, unless the vehicle has been registered under this section.~~

Sec. 5. Minnesota Statutes 2003 Supplement, section 84.901, is amended to read:

84.901 [OFF-HIGHWAY VEHICLE SAFETY AND CONSERVATION PROGRAM.]

Subdivision 1. [CREATION.] The commissioner of natural resources shall establish a grant program to promote the safe and responsible operation of off-highway vehicles in a manner that does not harm the environment. The commissioner shall coordinate the program through the regional offices of the Department of Natural Resources.

~~Subd. 2. [PURPOSE USE OF GRANTS.] The purpose of the program is to encourage off-highway vehicle clubs to assist, on a volunteer basis, in improving, maintaining, and monitoring of trails on state forest land and other public lands. (a) An organization receiving a grant under this section shall use the grant money to promote and provide support, on a volunteer basis, to the department by:~~

(1) improving, maintaining, and monitoring trails on state forest land and other public lands;

(2) providing assistance in locating, recruiting, and training instructors; and

(3) publishing a manual with the commissioner for use in training volunteers to monitor the operation of off-highway vehicles for safety, environmental, and other issues relating to responsible operation.

~~Subd. 3. [AGREEMENTS.] (a) The commissioner shall enter into informal agreements with off-highway vehicle clubs for volunteer services to maintain, make improvements to, and monitor trails on state forest land and other public lands. The off-highway vehicle clubs~~

(b) ~~The grantee shall promote the operation of off-highway vehicles in a safe and responsible manner that complies with the applicable laws and rules that relate to the operation of off-highway vehicles.~~

~~(b) The off-highway vehicle clubs may provide assistance to the department in locating, recruiting, and training instructors for off-highway vehicle training programs.~~

(e) The commissioner may provide assistance to enhance the comfort and safety of volunteers and to facilitate the implementation and administration of the safety and conservation program.

Subd. 4. [WORKER DISPLACEMENT PROHIBITED.] The commissioner may not enter into any agreement that has the purpose of or results in the displacement of public employees by volunteers participating in the off-highway safety and conservation program under this section. The commissioner must certify to the appropriate bargaining agent that the work performed by a volunteer will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

Sec. 6. Minnesota Statutes 2003 Supplement, section 84.922, subdivision 2, is amended to read:

Subd. 2. [APPLICATION, ISSUANCE, REPORTS.] (a) Application for registration or continued registration shall be made to the commissioner of natural resources, the commissioner of public safety or an authorized deputy registrar of motor vehicles in a form prescribed by the commissioner. The form must state the name and address of every owner of the vehicle.

(b) A person who purchases an all-terrain vehicle from a retail dealer shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary ten-day registration permit to each purchaser who applies to the dealer for registration. The dealer shall submit the completed registration application and fees to the deputy registrar at least once each week. No fee may be charged by a dealer to a purchaser for providing the temporary permit.

(c) Upon receipt of the application and the appropriate fee, the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, a 60-day temporary receipt and shall assign a registration number that must be affixed to the vehicle in a manner prescribed by the commissioner. A dealer subject to paragraph (b) shall provide the registration materials and temporary receipt to the purchaser within the ten-day temporary permit period. The commissioner shall use the snowmobile registration system to register vehicles under this section.

(d) Each deputy registrar of motor vehicles acting under section 168.33, is also a deputy registrar of all-terrain vehicles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with the accounting and procedural requirements.

(e) In addition to other fees prescribed by law, a filing fee of \$4.50 is charged for each all-terrain vehicle registration renewal, duplicate or replacement registration card, and replacement decal and a filing fee of \$7 is charged for each all-terrain vehicle registration and registration transfer issued by:

(1) a deputy registrar and shall be deposited in the treasury of the jurisdiction where the deputy is appointed, or retained if the deputy is not a public official; or

(2) the commissioner and shall be deposited to the state treasury and credited to the all-terrain vehicle account in the natural resources fund.

(f) The registration numbers and decal must be displayed on a plate not less than six inches high and 12 inches wide, which is clearly visible on the back of the vehicle, at least 12 inches from the ground. The plate, registration numbers, and registration decal must be maintained in a clear and legible condition. Letters and numbers on the plate shall be at least three inches high and not less than one-half inch wide.

Sec. 7. Minnesota Statutes 2002, section 84.925, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM ESTABLISHED.] (a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course.

(b) For the purpose of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee of \$15 from each person who receives the training. Fee proceeds shall be deposited in the all-terrain vehicle account in the natural resources fund. In addition to the fee established by the commissioner, instructors may charge each person up to \$5 for class material and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. By June 30, 2003, the commissioner shall incorporate a riding component in the safety education and training program.

Sec. 8. Minnesota Statutes 2002, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

- (1) make a direct crossing of a public road right-of-way;
- (2) operate an all-terrain vehicle on a public road right-of-way in the state; or
- (3) operate an all-terrain vehicle on public lands or waters.

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) All-terrain vehicle safety certificates issued by the commissioner to persons 12 years old, but less than 16 years old, are not valid for machines in excess of 90cc engine capacity unless:

(1) the person successfully completed the safety education and training program under section 84.925, subdivision 1, including a riding component; and

~~(2) the riding component of the training was conducted using an all-terrain vehicle with over 90cc engine capacity; and~~

~~(3) the person is able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.~~

Sec. 9. Minnesota Statutes 2002, section 84.9257, is amended to read:

84.9257 [PASSENGERS.]

(a) A parent or guardian may operate an all-terrain vehicle carrying one passenger who is under ~~16~~ 18 years of age and who wears a safety helmet approved by the commissioner of public safety.

(b) For the purpose of this section, "guardian" means a legal guardian of a person under age ~~16~~ 18, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age ~~16~~ 18.

(c) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.

Sec. 10. Minnesota Statutes 2003 Supplement, section 84.926, is amended to read:

84.926 [VEHICLE USE ALLOWED ON PUBLIC LANDS BY THE COMMISSIONER; EXCEPTIONS.]

Subdivision 1. [EXCEPTION BY PERMIT.] Notwithstanding ~~section~~ sections 84.773 and 84.777, on a case by case basis, the commissioner may issue a permit authorizing a person to operate an off-highway vehicle on individual public trails under the commissioner's jurisdiction and wetlands during specified times and for specified purposes.

Subd. 2. [ALL-TERRAIN VEHICLES; MANAGED OR LIMITED FORESTS; OFF TRAIL.] Notwithstanding section 84.777, on state forest lands classified as managed or limited, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use an all-terrain vehicle off forest trails or forest roads when:

(1) retrieving big game or traveling to and from or installing hunting stands during October, November, and December, when in possession of a valid big game license;

(2) retrieving big game in September when in possession of a valid big game hunting license;

(3) trapping protected furbearers during an open season, when in possession of a valid trapping license for the purposes of tending traps; or

(4) trapping minnows when in possession of a valid minnow dealer, private fish hatchery, or aquatic farm license.

Subd. 3. [ALL-TERRAIN VEHICLES; CLOSED FORESTS; HUNTING.] Notwithstanding sections 84.773 and 84.777, on a forest-by-forest basis, the commissioner may determine whether all-terrain vehicles are allowed on forest roads, in state forests classified as closed, for the purpose of hunting big game during an open big game season. The determination shall be by written order as published in the State Register, is exempt from chapter 14, and section 14.386 does not apply.

Subd. 4. [OFF-ROAD AND ALL-TERRAIN VEHICLES; LIMITED OR MANAGED FORESTS; TRAILS.] Notwithstanding sections 84.773 and 84.777, on state forest lands classified as limited or managed, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use vehicles registered under chapter 168, or under section 84.798 or 84.922, during an open big game season on forest trails, unless the trail is posted closed, when in possession of a valid big game license and only when traveling to and from a campsite.

Sec. 11. Minnesota Statutes 2002, section 84.928, subdivision 2, is amended to read:

Subd. 2. [OPERATION GENERALLY.] A person may not drive or operate an all-terrain vehicle:

(1) at a rate of speed greater than reasonable or proper under the surrounding circumstances;

(2) in a careless, reckless, or negligent manner so as to endanger or to cause injury or damage to the person or property of another;

(3) without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;

(4) without a functioning stoplight if so equipped;

(5) in a tree nursery or planting in a manner that damages or destroys growing stock;

(6) without a brake operational by either hand or foot;

(7) with more persons on the vehicle than it was designed for, except as allowed under section 84.9257;

(8) on public lands with tires that have a tread depth greater than one inch;

(9) at a speed exceeding ten miles per hour on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter; or

(9) (10) in a manner that violates operation rules adopted by the commissioner.

Sec. 12. Minnesota Statutes 2002, section 84.928, subdivision 6, is amended to read:

Subd. 6. [REGULATIONS BY POLITICAL SUBDIVISIONS.] (a) Notwithstanding any law to the contrary, a city or town, acting through its governing body, may by resolution or ordinance prohibit the operation of all-terrain vehicles on city streets or town roads in its jurisdiction provided the regulations are otherwise consistent with sections 84.92 to 84.929.

(b) A county or city, or a town acting by its town board, may regulate the operation of all-terrain vehicles on public lands, waters, and property under its jurisdiction other than public road rights-of-way within its boundaries, by resolution or ordinance of the governing body and by giving appropriate notice, provided:

(1) the regulations must be consistent with sections 84.92 to 84.929 and rules adopted under section 84.924;

(2) an ordinance may not impose a fee for the use of public land or water under the jurisdiction of either the Department of Natural Resources or other agency of the state, or for the use of an access to it owned by the state or a county or a city; and

(3) an ordinance may not require an all-terrain vehicle operator to possess a motor vehicle driver's license while operating an all-terrain vehicle.

(c) Notwithstanding any law to the contrary, a county board by ordinance may allow the operation of all-terrain vehicles on the road right-of-way shoulder, or inside bank or slope of a county highway or county state-aid highway, if:

(1) the highway is in the agricultural zone; or

(2) safe operation in the ditch or outside slope is impossible, and the county posts the appropriate notice; or

(3) the road is designated as a minimum-maintenance road under section 160.095.

Sec. 13. Minnesota Statutes 2003 Supplement, section 84.930, is amended to read:

84.930 [MOTORIZED TRAIL GRANTS-IN-AID.]

(a) This section applies to grants-in-aid for motorized trail construction and maintenance under sections 84.794, 84.803, 84.83, and 84.927.

(b) If the commissioner of natural resources determines that a grant-in-aid recipient has violated any federal or state law, any local ordinance, or any of the terms of the grant agreement with the commissioner, the commissioner may withhold all grant payments for any work occurring after the date the recipient was notified of the violation and seek restitution for any property damage caused by the violation.

(c) A grant-in-aid recipient may appeal the commissioner's decision under paragraph (b) in a contested case hearing under section 14.58.

Sec. 14. Minnesota Statutes 2002, section 89.19, is amended to read:

89.19 [RULES.]

Subdivision 1. [RULEMAKING AUTHORIZED.] The commissioner may prescribe rules governing the use of forest lands under the authority of the commissioner and state forest roads, or any parts thereof, by the public and governing the exercise by holders of leases or permits on forest lands and state forest roads of all their rights under the leases or permits.

Subd. 2. [RULEMAKING EXEMPTION.] The designation of forest trails by the commissioner shall be by written order that is published in the State Register. These designations are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Before designating forest trails, the commissioner shall hold a public meeting in the county where the largest portion of the forest lands are located to provide information to and receive comment from the public regarding the proposed trail designation. Sixty days before the public meeting, notice of the proposed forest trail shall be published in the legal newspapers that serve the counties in which the lands are located, in a statewide Department of Natural Resources news release, and in the State Register.

Sec. 15. Minnesota Statutes 2002, section 97A.133, subdivision 3, is amended to read:

Subd. 3. [ALL-TERRAIN VEHICLE TRAVEL WITHIN DESIGNATED WILDLIFE MANAGEMENT AREAS.] (a) On lands acquired by the state under chapter 84A that are designated after January 1, 1986, as wildlife management areas, the commissioner shall, by January 15, 2004 2005, identify, designate, and sign at least 90 70 miles of all-terrain vehicle trails, not including public roads that are maintained open to the public and open to travel by other noncommercial vehicles, in corridors of disturbance that:

(1) the commissioner determines are appropriate to connect trails, forest roads established under section 89.71, subdivision 1, and public highways to provide reasonable travel for all-terrain vehicles; or

(2) are areas of historic all-terrain vehicle use, including trails that end within a wildlife management area.

The designated trails must be either within or contiguous to the wildlife management areas. The commissioner shall consult with wildlife management area users, including both motorized and nonmotorized trail users, in identifying and designating trails under this paragraph. Trail establishment must be in compliance with other state and federal law. Local governments and other trail sponsors may propose the designation of trails, including the designation as a grant-in-aid trail for the purposes of funding under section 84.927, subdivision 2.

(b) The following roads shall be open to travel by all-terrain vehicles when the roads are open to other noncommercial vehicles:

(1) the Rapid River Forest Road, beginning at the west boundary of the Red Lake Wildlife Management Area at the southwest corner of Section 7, Township 156 North, Range 35 West, Beltrami County, thence in an easterly and northeasterly direction through the Red Lake Wildlife Management Area to the east boundary of the Red Lake Wildlife Management Area at the southwest corner of Section 7, Township 157 North, Range 33 West, Lake of the Woods County;

(2) the Blanchard Forest Road, beginning at the junction of the North Shore Road along the northern shore of Upper Red Lake and the Blanchard State Forest Road at the west section line of Section 30, Township 155 North, Range 31 West, Beltrami County, thence in a westerly direction to the west section line of Section 31, Township 155 North, Range 32 West;

(3) the Moose River Forest Road, beginning at the junction of Dick's Parkway State Forest Road and the Moose River State Forest Road at the southwest corner of Section 31, Township 36 West, Range 158 North, thence in a westerly direction along the Moose River State Forest Road to the junction of Beltrami County Road 706; and

(4) the existing west access road to the Moose River dike, which is included in meeting the required all-terrain vehicle trail mileage specified in paragraph (a).

(c) The commissioner shall sign each road and trail designated under this subdivision indicating the motorized uses allowed.

(d) During the regular firearms deer season, on all wildlife management area lands within the area described in paragraph (e), a person licensed to take deer may operate an all-terrain vehicle:

- (1) before legal shooting hours;
- (2) after legal shooting hours; and
- (3) from 11:00 a.m. to 2:00 p.m.

(e) Paragraph (d) applies from where State Highway No. 1 intersects the west boundary of the Red Lake Indian Reservation, then west to State Highway No. 219, then north on State Highway No. 219 to State Highway No. 89, then north on State Highway No. 89 to County Highway No. 6, then east on County Highway No. 6 to County Highway No. 54 and County Highway No. 1 (Beltrami/Marshall county line) then north along the Beltrami/Marshall county line to Roseau county line, then east on Beltrami/Roseau county line to Dick's Parkway, then south on Dick's Parkway to County Road No. 704, Beltrami County, then south to County State-Aid Highway No. 44 to Fourtown, then south on State Highway No. 89 to the north boundary of the Red Lake Indian Reservation, then west and south following the boundary of the Red Lake Indian Reservation to where it intersects State Highway No. 1.

(f) For the purposes of this subdivision, "corridors of disturbance" means rights-of-way such as ditches, ditch banks, transmission lines, pipelines, permanent roads, winter roads, and recreational trails. The existence of a corridor of disturbance eligible for corridor designation may be demonstrated by physical evidence, document recorded in the office of the county recorder or other public official, aerial survey, or other evidence similar to the above. Cross-country motorized use of land shall not cause that land to be considered a corridor of disturbance.

Sec. 16. Laws 2003, chapter 128, article 1, section 167, subdivision 1, is amended to read:

Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed or limited, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. After each forest is reviewed, the commissioner must change its status to limited or closed, and must provide a similar status for each of the other areas subject to review under this section after each individual review is completed.

(b) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

(c) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed.

Sec. 17. [GAS TAX ALLOCATION TASK FORCE; APPROPRIATION.]

(a) A task force of three members is created to examine and report on the purpose and appropriateness of the legislation that permits gas tax revenue to be allocated to the three off-highway vehicle dedicated accounts. The task force shall determine the amount of unrefunded gasoline tax attributable to off-highway vehicle use in the state and shall report to the legislature by March 1, 2005, with an appropriate proposed revision to Minnesota Statutes, section 296A.18. The task force shall also include in the report information on who is paying into these funds and who is benefiting from these funds.

(b) The task force shall be composed of:

- (1) the commissioner of natural resources or the commissioner's designee;
- (2) the commissioner of transportation or the commissioner's designee; and
- (3) the commissioner of revenue or the commissioner's designee.

(c) The commissioner of revenue or the commissioner's designee shall chair the committee and provide appropriate staffing.

Sec. 18. [OFF-HIGHWAY VEHICLES STUDY AND REPORT.]

The commissioner of natural resources shall conduct a study examining the following issues:

(1) the general location, types, and ownership of wetlands in this state and the proximity of the wetlands to all classes of roads;

(2) the effects of driving off-highway vehicles in the different types of wetlands on wildlife habitat, wetlands ecology, and hydrology and how seasonal weather variations change those effects. This analysis must be done in the context of the Wetlands Conservation Act, the Wetlands Conservation Plan, and associated state policies; and

(3) a summary of damage sustained by state forest lands due to violations of Minnesota Rules, part 6100.1950, subpart 7, item A, and recommendations for preventing future damage.

The commissioner shall report the findings of this study by January 15, 2005, to the legislative committees with jurisdiction over environment and natural resources.

Sec. 19. [PROCEDURES AND CRITERIA FOR GRANTS-IN-AID TRAILS.]

(a) The commissioner of natural resources shall establish procedures and criteria, by written order, published in the State Register to:

(1) increase the level of oversight that the commissioner provides off-highway vehicle grants-in-aid trails and not rely on indirect and ad hoc oversight. The commissioner shall develop and adopt a process that requires clubs to submit plans before major trail work on public land is carried out and requires the commissioner to inspect the trail work after it is completed;

(2) prohibit a local government sponsor from assigning oversight responsibility for snowmobile or off-highway vehicle trail grants to a local government official who serves as an officer or bookkeeper of a grant recipient; and

(3) require a wetlands inspection by a trained professional when a grant recipient proposes draining or filling a wetland for an existing or new off-highway vehicle trail alignment, to determine whether a wetland permit or replacement plan is required.

(b) Procedures and criteria under this section are not subject to the rulemaking provisions in Minnesota Statutes, chapter 14, and Minnesota Statutes, section 14.386, does not apply.

Sec. 20. [APPROPRIATION.]

\$...... is appropriated from the natural resources fund to the commissioner of natural resources for the fiscal biennium ending June 30, 2005, for purposes of the study and report in section 18. Of this amount, \$...... must be appropriated from the off-highway motorcycle account, \$...... from the off-road vehicle account, and \$...... from the all-terrain vehicle account."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying restrictions on the operation of off-highway vehicles; providing an exemption from rulemaking; extending the availability of the off-highway vehicle damage account; modifying decal requirements for off-highway motorcycles;

clarifying the requirement for off-road vehicle registration; modifying the off-highway vehicle safety and conservation grant program; modifying restrictions on the operation of all-terrain vehicles; modifying provisions for reviewing forest classification status; modifying trail designation on certain consolidated conservation lands; creating a gas tax allocation task force; requiring an off-highway vehicle study and report; providing for the establishment of procedures and criteria for grant-in-aid trails; appropriating money; amending Minnesota Statutes 2002, sections 84.798, subdivision 1; 84.925, subdivision 1; 84.9256, subdivision 1; 84.9257; 84.928, subdivisions 2, 6; 89.19; 97A.133, subdivision 3; Minnesota Statutes 2003 Supplement, sections 84.773; 84.780; 84.788, subdivision 3; 84.901; 84.922, subdivision 2; 84.926; 84.930; Laws 2003, chapter 128, article 1, section 167, subdivision 1."

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. 2211: A bill for an act relating to natural resources; modifying provisions for the control of invasive and nonnative species; providing criminal and civil penalties; requiring rulemaking; amending Minnesota Statutes 2002, sections 17.4982, subdivision 18a; 84D.01, subdivisions 6, 9, 12, 13, 15, 17, 18, by adding subdivisions; 84D.02, subdivisions 1, 3, 4, 5, 6; 84D.03; 84D.04; 84D.05; 84D.06; 84D.07; 84D.08; 84D.09, subdivision 2; 84D.10, subdivisions 1, 3; 84D.11, subdivisions 1, 2, 2a; 84D.12; 84D.13, subdivisions 3, 4, 5; 86B.415, subdivision 7; 97C.821; Minnesota Statutes 2003 Supplement, sections 18.78, subdivision 2; 84.027, subdivision 13; 84D.14; repealing Minnesota Statutes 2002, section 84D.01, subdivisions 5, 7; Minnesota Rules, part 6216.0400, subparts 2, 3.

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

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

S.F. No. 2871: A bill for an act relating to local government; increasing the efficiency of payroll processing; authorizing the use of electronic time recording systems; amending Minnesota Statutes 2002, section 412.271, subdivision 2.

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

Page 2, after line 25, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment."

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

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

S.F. No. 1334: A bill for an act relating to cities; allowing the charter to prohibit members of the governing body of the city from serving on the charter commission; amending Minnesota Statutes 2002, section 410.05, subdivision 1.

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

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

S.F. No. 2342: A bill for an act relating to county recorders; providing that the county recorder may accept security deposits to guarantee payment of charges; making conforming changes; amending Minnesota Statutes 2002, section 386.78.

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. 2122: A bill for an act relating to Anoka County; authorizing the county to establish a Personnel Board of Appeals.

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

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

S.F. No. 2733: A bill for an act relating to state government; requiring flags in the Capitol area to be flown at half-staff following death of a firefighter killed in the line of duty; proposing coding for new law in Minnesota Statutes, chapter 1.

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

Page 1, line 8, delete "FIREFIGHTER" and insert "PUBLIC SAFETY OFFICER"

Page 1, line 11, delete "firefighter" and insert "public safety officer as defined in section 299A.41, subdivision 4,"

Amend the title as follows:

Page 1, line 4, delete "firefighter" and insert "public safety officer"

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 referred

S.F. No. 2274: A bill for an act relating to zoning; providing certain limitations on municipal interim ordinances; amending Minnesota Statutes 2002, section 462.355, subdivision 4.

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

Page 2, lines 3 to 7, delete the new language and insert: "The governing body of the municipality may extend the interim ordinance after a public hearing and written findings have been adopted based upon one or more of the conditions in clause (1), (2), or (3). The public hearing must be held at least 15 days but not more than 30 days before the expiration of the interim ordinance, and notice of the hearing must be published at least ten days before the hearing. The interim ordinance may be extended for the following conditions and durations, but, except as provided in clause (3), an interim ordinance may not be extended more than an additional 18 months:

(1) up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the municipality at least 30 days before the expiration of the interim ordinance;

(2) up to an additional 120 days following the completion of any other process required by a state statute, federal law, or court order, when the process is not completed at least 30 days before the expiration of the interim ordinance; or

(3) up to an additional one year if the municipality has not adopted a comprehensive plan under this section at the time the interim ordinance is enacted."

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. 1850: A bill for an act relating to real property; the electronic real estate recording task force created by Laws 2000, chapter 391; amending uncoded laws relating to that task force; extending the period of existence of the task force and the surcharge on filings appropriated to the task force; appropriating money; amending Laws 2000, chapter 391, section 1, subdivision 2; Laws 2001, First Special Session chapter 10, article 2, section 77; Laws 2002, chapter 365, section 9; Laws 2003, First Special Session chapter 1, article 2, section 123.

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

Pages 1 and 2, delete section 1 and insert:

"Section 1. Laws 2000, chapter 391, section 1, subdivision 1, is amended to read:

Subdivision 1. [TASK FORCE; MEMBERSHIP.] (a) The secretary of state shall establish serve as the chair of a task force of 15 members to study and make recommendations for the establishment of a system for the electronic filing and recording of real estate documents. Members who are appointed under this section shall serve for a term of three years commencing on June 30, 2004. The state's chief information officer, as designated under Minnesota Statutes 2002, section 16E.02, shall serve as the vice chair of the task force. The task force must include:

(1) two members of the senate appointed by the subcommittee on committees of the committee on rules and administration and two members of the house appointed by the speaker of the house;

(2) representatives of county recorders and other three county government officials appointed by the association of county officers, including one county recorder, one county auditor, and one county treasurer;

(2) two county board members appointed by the Association of Minnesota Counties, including one board member from within the seven-county metropolitan area, and one board member from outside the seven-county metropolitan area;

(3) seven members from the private sector appointed by the chair, including representatives of:

(i) real estate attorneys, real estate agents, and public and private land surveyors;

(4) representatives of (ii) title companies, mortgage companies, and other real estate lenders; and

(5) a representative of the Minnesota historical society and other state and local government archivists;

(6) (iii) technical and industry experts in electronic commerce and electronic records management and preservation; and

(7) representatives of federal government-sponsored enterprises active in the real estate industry;

(8) the commissioner of revenue; and

(9) other members appointed by the secretary of state

(4) a representative selected by the Minnesota Historical Society.

(b) The task force may refer items to subcommittees. The chair shall appoint the membership of

a subcommittee. An individual may be appointed to serve on a subcommittee without serving on the task force.

Sec. 2. Laws 2000, chapter 391, section 1, subdivision 2, as amended by Laws 2002, chapter 365, section 5, is amended to read:

Subd. 2. [STUDY AND RECOMMENDATIONS.] The task force shall study and make recommendations regarding implementation of a system for electronic filing and recording of real estate documents and shall consider:

- (1) technology and computer needs;
- (2) legal issues such as authenticity, security, timing and priority of recordings, and the relationship between electronic and paper recording systems;
- (3) cost-effectiveness of electronic recording systems;
- (4) timetable and plan for implementing an electronic recording system, considering types of documents and entities using the system and volume of recordings;
- (5) permissive versus mandatory systems; and
- (6) other relevant issues identified by the task force.

The task force shall submit a report to the legislature by January 15, 2001, outlining a proposed work plan and budget for consideration by the legislature. By January 15, 2005, the task force shall provide an updated report to the legislature containing a revised work plan and budget. The task force expires June 30, 2004 2007."

Page 2, after line 34, insert:

"Sec. 6. [TASK FORCE TRANSITION.]

The members of the electronic real estate document task force created in Laws 2000, chapter 391, section 1, who are serving on the task force on the effective date of this act shall end their service on that date unless reappointed or designated under section 1.

Sec. 7. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "subdivision 2" and insert "subdivisions 1, 2, as amended"

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

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

S.F. No. 2210: A bill for an act relating to natural resources; modifying requirements for certain equipment used by the department; exempting certain patrol vehicles from the security barrier requirement; providing for designation of certain enforcement personnel by commissioner's order; amending Minnesota Statutes 2002, section 84.025, subdivision 10; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 85.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 84.

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

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

S.F. No. 2727: A bill for an act relating to public safety; making changes to the CrimNet law; amending Minnesota Statutes 2002, section 299C.65, subdivisions 1, 2, by adding a subdivision; repealing Minnesota Statutes 2002, section 299C.65, subdivisions 3, 4.

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

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

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

S.F. No. 457: A bill for an act relating to traffic regulations; exempting garbage trucks and recycling vehicles from certain weight restrictions; amending Minnesota Statutes 2002, section 169.87, subdivision 6.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 169.87, subdivision 6, is amended to read:

Subd. 6. [RECYCLING AND GARBAGE VEHICLES.] (a) Except as provided in paragraph (b), weight restrictions imposed under subdivisions 1 and 2 do not apply to a ~~two-axle~~ vehicle that does not exceed 20,000 pounds per single axle and is designed and used exclusively for recycling, while engaged in recycling in a political subdivision that mandates curbside recycling pickup.

(b) Until July 1, 2005, weight restrictions imposed under subdivisions 1 and 2 do not apply to (1) a vehicle that does not exceed 14,000 pounds per single axle and is used exclusively for recycling as described in paragraph (a), or (2) a vehicle that does not exceed 14,000 pounds per single axle and is designed and used exclusively for collecting mixed municipal solid waste, as defined in section 115A.03, subdivision 21, while engaged in such collection.

(c) Notwithstanding section 169.80, subdivision 1, a violation of weight restrictions imposed under subdivisions 1 and 2 by a vehicle designed and used exclusively for recycling while engaged in recycling in a political subdivision that mandates curbside recycling pickup while engaged in such collection, or by a vehicle that is designed and used exclusively for collecting mixed municipal solid waste as defined in section 115A.03, subdivision 21, while engaged in such collection, is not subject to criminal penalties but is subject to a civil penalty for excess weight under section 169.871.

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

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

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

S.F. No. 1813: A bill for an act relating to motor vehicles; allowing volunteer firefighter to display blue lights on private motor vehicle under certain circumstances; amending Minnesota Statutes 2003 Supplement, section 169.64, subdivision 4.

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

Page 2, line 10, delete "certificated" and insert "certified"

Page 2, line 16, delete "certificated" and insert "certified"

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

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

S.F. No. 1584: A bill for an act relating to traffic regulations; prohibiting sale and unauthorized use and ownership of mobile infrared transmitter devices to change traffic lights; providing penalties; amending Minnesota Statutes 2002, section 169.06, by adding subdivisions.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 169.06, is amended by adding a subdivision to read:

Subd. 5b. [PROHIBITION REGARDING TRAFFIC SIGNAL PREEMPTION TRANSMITTERS.] A person who possesses, owns, or uses a traffic signal preemption transmitter that can change the phase of a traffic signal, without legislative or government authorization, is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 2002, section 169.06, is amended by adding a subdivision to read:

Subd. 5c. [PROHIBITION OF SALE OF TRAFFIC SIGNAL PREEMPTION TRANSMITTERS.] A person who provides for sale to an unauthorized user a traffic signal preemption transmitter that can change the phase of a traffic signal, is guilty of a misdemeanor."

Delete the title and insert:

"A bill for an act relating to traffic regulations; prohibiting sale and unauthorized use and ownership of traffic signal preemption transmitters that can change the phase of traffic signals; providing penalties; amending Minnesota Statutes 2002, section 169.06, by adding subdivisions."

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

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

S.F. No. 1788: A bill for an act relating to drivers' licenses; requiring certain applicants for license renewal to pass examinations; requiring physicians to report driving-related physical or mental conditions to commissioner of public safety; making clarifying changes; amending Minnesota Statutes 2002, sections 171.01, by adding a subdivision; 171.13, subdivision 2; 171.131.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 171.13, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION UPON RENEWAL.] The department shall issue a driver's license upon renewal when:

(1) the applicant has passed an examination consisting of a screening of the applicant's eyesight. Screening of eyesight required by this subdivision does not constitute the practice of optometry as defined in section 148.56;

(2) an applicant who, since the last previous license renewal or issuance, received a warning letter or attended a preliminary hearing as a habitual violator, within the meaning of Minnesota Rules, has passed a written examination; and

(3) an applicant who, since the last previous license renewal or issuance, was at fault in two or more crashes or had driving privileges suspended as a habitual violator, has passed a road examination.

The commissioner may adopt rules to administer this subdivision.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 2005."

Delete the title and insert:

"A bill for an act relating to drivers' licenses; requiring certain applicants for license renewal to pass examinations; making clarifying changes; amending Minnesota Statutes 2002, section 171.13, subdivision 2."

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

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

S.F. No. 1674: A bill for an act relating to traffic regulations; removing length limitation from definition of residential roadway; amending Minnesota Statutes 2002, section 169.01, subdivision 81.

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

Page 1, delete lines 10 and 11 and insert "means a street or portion of a street that is less than ~~one-half~~ three-quarters of a mile in length and is functionally classified as a local street"

Amend the title as follows:

Page 1, line 2, delete "removing" and insert "changing"

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 re-referred

S.F. No. 1268: A bill for an act relating to utilities; modifying notice and plan requirements before excavating around utility facilities; allowing notice exception for emergency; requiring rules for damage reports; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 216D.04, subdivisions 1, 1a, 2, 3, 4; 216D.05; 216D.06, subdivision 3, by adding a subdivision; 216D.08, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 216D.01, is amended by adding a subdivision to read:

Subd. 12. [UTILITY QUALITY LEVEL.] "Utility quality level" means a professional opinion about the quality and reliability of utility information. There are four levels of utility quality information, ranging from the most precise and reliable, level A, to the least precise and reliable, level D. The utility quality level must be determined in accordance with guidelines established by the Construction Institute of the American Society of Civil Engineers in document CI/ASCE 38-02 entitled "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data."

Sec. 2. Minnesota Statutes 2002, section 216D.04, subdivision 1, is amended to read:

Subdivision 1. [NOTICE REQUIRED; CONTENTS.] (a) Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide ~~an excavation or location~~ notice at least 48 hours, ~~excluding Saturdays, Sundays, and holidays and not more than 14 calendar days before beginning any excavation or boundary survey, excluding Saturdays, Sundays, and holidays.~~ An excavation or boundary survey begins, for purposes of this requirement, the first time excavation or a boundary survey occurs in an area that was not

previously identified by the excavator or land surveyor in ~~an excavation or boundary survey~~ the notice.

(b) The ~~excavation~~ notice may be oral or written, and must contain the following information:

- (1) the name of the individual providing the ~~excavation~~ notice;
- (2) the precise location of the proposed area of excavation or survey;
- (3) the name, address, and telephone number of the ~~excavator~~ individual or ~~excavator's~~ individual's company;
- (4) the ~~excavator's~~ field telephone number, if one is available;
- (5) the type and the extent of the ~~proposed excavation~~ activity;
- (6) whether or not the discharge of explosives is anticipated;
- (7) the date and time when the excavation or survey is to commence; and
- (8) the estimated duration of the ~~excavation~~ activity.

~~(c) The boundary survey notice may be oral or written, and must contain the following information:~~

- ~~(1) the name of the individual providing the boundary survey;~~
- ~~(2) the precise location of the proposed area of the boundary survey;~~
- ~~(3) the name, address, and telephone number of the land surveyor or the land surveyor's company;~~
- ~~(4) the land surveyor's field telephone number, if available;~~
- ~~(5) the extent of the proposed boundary survey;~~
- ~~(6) the date and time when the boundary survey is to commence.~~

Sec. 3. Minnesota Statutes 2002, section 216D.04, subdivision 1a, is amended to read:

Subd. 1a. [PLANS FOR EXCAVATION.] (a) Any person, prior to soliciting bids or entering into a contract for excavation, shall provide a proposed ~~excavation request~~ notice to the notification center to obtain from the affected operators of underground facilities the type, size, and general location of underground facilities. Affected operators shall provide the information within 15 working days. An operator who provides information to a person who is not a unit of government may indicate any portions of the information which are proprietary and may require the person to provide appropriate confidentiality protection. The information obtained from affected operators must be submitted ~~with~~ on the final drawing used for the bid or contract and must depict the utility quality level of that information. This information must be obtained updated not more than 90 days before completion of the final drawing used for the bid or contract.

(b) This subdivision does not apply to bids and contracts for:

- (1) routine maintenance of underground facilities or installation, maintenance, or repair of service lines;
- (2) excavation for operators of underground facilities performed on a unit of work or similar basis; or
- (3) excavation for home construction and projects by home owners.

(c) A person required by this section to show existing underground facilities on its drawings shall conduct one or more preliminary design meetings during the design phase to communicate

the project design and coordinate utility relocation. Affected facility operators shall attend these meetings or make other arrangements to provide information.

(d) A person required by this section to show existing underground facilities on its drawings shall conduct one or more preconstruction meetings to communicate the project design and coordinate utility relocation. Affected facility operators and contractors shall attend these meetings or make other arrangements to provide information.

(e) This subdivision does not affect the obligation to provide a notice of excavation as required under subdivision 1.

Sec. 4. Minnesota Statutes 2002, section 216D.04, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF NOTIFICATION CENTER.] The notification center shall assign an inquiry identification number to each ~~excavation or location~~ notice and retain a record of all ~~excavation or location~~ notices received for at least six years. The center shall immediately transmit the information contained in an ~~excavation or location~~ a notice to every operator that has an underground facility in the area of the proposed excavation or boundary survey.

Sec. 5. Minnesota Statutes 2002, section 216D.04, subdivision 3, is amended to read:

Subd. 3. [LOCATING UNDERGROUND FACILITY; OPERATOR.] (a) Prior to the excavation start time on the notice, an operator shall, within 48 hours after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course of business, without cost to the excavator. The excavator shall determine the precise location of the underground facility, without damage, before excavating within two feet of the marked location of the underground facility.

~~An operator shall,~~ (b) Within 96 hours or the time specified in the notice, whichever is later, after receiving a location notice for boundary survey from the notification center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the land surveyor and operator, an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator, without cost to the land surveyor.

~~(b)~~ (c) For the purpose of this section, the approximate horizontal location of the underground facilities is a strip of land two feet on either side of the underground facilities.

~~(e)~~ (d) Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American Public Works Association.

~~(d)~~ (e) If the operator cannot complete marking of the excavation or boundary survey area before the excavation or boundary survey commencement start time stated in the excavation or location notice, the operator shall promptly contact the excavator or land surveyor.

~~(e)~~ Effective January 1, 1999 (f) After December 31, 1998, operators shall maintain maps, drawings, diagrams, or other records of any underground facility abandoned or out-of-service after December 31, 1998.

~~(f)~~ (g) An operator or other person providing information pursuant to this subdivision is not responsible to any person, for any costs, claims, or damages for information provided in good faith regarding abandoned or, out-of-service, or private or customer-owned underground facilities.

Sec. 6. Minnesota Statutes 2002, section 216D.04, subdivision 4, is amended to read:

Subd. 4. [LOCATING UNDERGROUND FACILITY; EXCAVATOR OR LAND SURVEYOR.] (a) The excavator or land surveyor shall determine the precise location of the underground facility, without damage, before excavating within two feet on either side of the marked location of the underground facility.

(b) If the excavator or land surveyor ~~postpones the excavation or boundary survey commencement time stated in the excavation or location notice by more than 96 hours, or cancels the excavation or boundary survey, the excavator or land surveyor shall notify~~ cancel the notice through the notification center.

(c) ~~The notification center excavation or location notice will be void six months from the issue date on the notice. A new notice will need to be issued to continue excavation.~~ is valid for 14 calendar days from the start time stated on the notice. If the activity will continue after the expiration time, then the person responsible for the activity shall serve an additional notice at least 48 hours, excluding Saturdays, Sundays, and holidays, before the expiration time of the original notice, unless the excavator makes arrangements with the operators affected to periodically verify or refresh the marks, in which case the notice is valid for six months from the start time stated on the notice.

(d) The excavator is responsible for reasonably protecting and preserving the marks until no longer required for proper and safe excavation near the underground facility. If the excavator has reason to believe the marks are obliterated, obscured, missing, or incorrect, the excavator shall notify the facility operator or notification center in order to have an operator verify or refresh the marks.

Sec. 7. Minnesota Statutes 2002, section 216D.05, is amended to read:

216D.05 [PRECAUTIONS TO AVOID DAMAGE.]

An excavator shall:

(1) plan the excavation to avoid damage to and minimize interference with underground facilities in and near the construction area, ~~using;~~

(2) ~~use white markings for proposed excavations~~ except where it can be shown that it is not practical;

~~(2)~~ (3) maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility;

~~(3)~~ (4) provide support for underground facilities in and near the construction area, including during backfill operations, to protect the facilities; and

~~(4)~~ (5) conduct the excavation in a careful and prudent manner."

Delete the title and insert:

"A bill for an act relating to utilities; modifying notice and plan requirements before excavating around utility facilities; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 216D.01, by adding a subdivision; 216D.04, subdivisions 1, 1a, 2, 3, 4; 216D.05."

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

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

H.F. No. 2296 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS

H.F. No. 2296
S.F. No. 2395

CONSENT CALENDAR

H.F. No. S.F. No.

CALENDAR

H.F. No. S.F. No.

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2296 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2296 and insert the language after the enacting clause of S.F. No. 2395; further, delete the title of H.F. No. 2296 and insert the title of S.F. No. 2395.

And when so amended H.F. No. 2296 will be identical to S.F. No. 2395, and further recommends that H.F. No. 2296 be given its second reading and substituted for S.F. No. 2395, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 2207 for comparison with companion Senate File, reports the following House File was found not identical with 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.
2207	2150				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2207 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2207 and insert the language after the enacting clause of S.F. No. 2150, the first engrossment; further, delete the title of H.F. No. 2207 and insert the title of S.F. No. 2150, the first engrossment.

And when so amended H.F. No. 2207 will be identical to S.F. No. 2150, and further recommends that H.F. No. 2207 be given its second reading and substituted for S.F. No. 2150, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 1978 for comparison with companion Senate File, reports the following House File was found not identical with 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.
1978	1910				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1978 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1978 and insert the language after the enacting clause of S.F. No. 1910; further, delete the title of H.F. No. 1978 and insert the title of S.F. No. 1910.

And when so amended H.F. No. 1978 will be identical to S.F. No. 1910, and further recommends that H.F. No. 1978 be given its second reading and substituted for S.F. No. 1910, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 2521 for comparison with companion Senate File, reports the following House File was found not identical with 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.
2521	2435				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2521 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2521 and insert the language after the enacting clause of S.F. No. 2435, the first engrossment; further, delete the title of H.F. No. 2521 and insert the title of S.F. No. 2435, the first engrossment.

And when so amended H.F. No. 2521 will be identical to S.F. No. 2435, and further recommends that H.F. No. 2521 be given its second reading and substituted for S.F. No. 2435, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 2551 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.
2551	2418				

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 1898 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.
1898	1953				

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 1710 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.
		1710	2337		

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 Kelley from the Committee on Education, to which was re-referred

S.F. No. 2026: A bill for an act relating to education; providing for prekindergarten through grade 12 education, including general education, education excellence, special programs, libraries, and state agencies; providing for rulemaking; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding a subdivision; 122A.20, subdivision 2; 123B.143, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.76, by adding a subdivision; 123B.82; 124D.59, as amended; 124D.61; 125A.023, subdivision 3; 125A.03; 127A.42, subdivision 6; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.45, subdivision 5; Minnesota Statutes 2003 Supplement, sections 120B.021, subdivision 3; 120B.024; 120B.36; 123B.77, subdivision 4; 124D.095, subdivision 4; 124D.11, subdivision 1; 124D.454, subdivision 2; 125A.023, subdivision 4; 126C.10, subdivision 3; 127A.42, subdivision 2; 275.065, subdivision 1; 475.61, subdivision 4; Laws 2003, First Special Session chapter 9, article 3, section 19; proposing coding for new law in Minnesota Statutes, chapters 120B; 127A; repealing Minnesota Statutes 2002, section 126C.23.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2002, section 123B.49, subdivision 4, is amended to read:

Subd. 4. [BOARD CONTROL OF EXTRACURRICULAR ACTIVITIES.] (a) The board may take charge of and control all extracurricular activities of the teachers and children of the public schools in the district. Extracurricular activities means all direct and personal services for pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. The board shall allow all resident pupils receiving instruction in a home school as defined in section 123B.36, subdivision 1, paragraph (a), to be eligible to fully participate in extracurricular activities on the same basis as public school students.

(b) Extracurricular activities have all of the following characteristics:

- (1) they are not offered for school credit nor required for graduation;
- (2) they are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;
- (3) the content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

(c) If the board does not take charge of and control extracurricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions, or other student fund-raising events. The general fund must reflect only those salaries directly related to and readily identified with the activity and paid

by public funds. Other revenues and expenditures for extra curricular activities must be recorded according to the "~~Manual of Instruction for Uniform Student Activities Accounting for Minnesota School Districts and Area Vocational-Technical Colleges~~ Manual for Activity Fund Accounting." Extracurricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.

(d) If the board takes charge of and controls extracurricular activities, any or all costs of these activities may be provided from school revenues and all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district.

(e) If the board takes charge of and controls extracurricular activities, the teachers or pupils in the district must not participate in such activity, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Sec. 2. Minnesota Statutes 2002, section 123B.53, subdivision 6, is amended to read:

Subd. 6. [DEBT SERVICE EQUALIZATION AID.] (a) A district's debt service equalization aid is the sum of the district's first tier debt service equalization aid and the district's second tier debt service equalization aid.

(b) A district's first tier debt service equalization aid equals the difference between the district's first tier debt service equalization revenue and the district's first tier equalized debt service levy.

(c) A district's second tier debt service equalization aid equals the difference between the district's second tier debt service equalization revenue and the district's second tier equalized debt service levy.

Sec. 3. Minnesota Statutes 2002, section 123B.76, is amended by adding a subdivision to read:

Subd. 3. [EXPENDITURES BY BUILDING.] (a) For the purposes of this section, "building" means education site as defined in section 123B.04, subdivision 1.

(b) Each district shall maintain separate accounts to identify general fund expenditures, excluding capital expenditures and pupil transportation, for each building. All expenditures for regular instruction, secondary vocational instruction, and school administration must be reported to the department separately for each building. All expenditures for special education instruction, instructional support services, and pupil support services provided within a specific building must be reported to the department separately for each building. Salary expenditures reported by building must reflect actual salaries for staff at the building and must not be based on districtwide averages. All other general fund expenditures may be reported on a districtwide basis.

(c) The department must annually report information showing school district general fund expenditures per pupil by program category for each building and estimated school district general fund revenue generated by pupils attending each building on its Web site. For purposes of this report:

(1) expenditures not required to be reported by building shall be allocated among buildings on a uniform per pupil basis;

(2) basic skills revenue shall be allocated according to section 126C.10, subdivision 4;

(3) secondary sparsity revenue and elementary sparsity revenue shall be allocated according to section 126C.10, subdivisions 7 and 8;

(4) other general education revenue shall be allocated on a uniform per pupil unit basis;

(5) first grade preparedness aid shall be allocated according to section 124D.081;

(6) state and federal special education aid and Title I aid shall be allocated in proportion to district expenditures for these programs by building; and

(7) other general fund revenues shall be allocated on a uniform per pupil basis, except that the

department may allocate other revenues attributable to specific buildings directly to those buildings.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to reports for fiscal year 2004 and later.

Sec. 4. Minnesota Statutes 2003 Supplement, section 123B.77, subdivision 4, is amended to read:

Subd. 4. [BUDGET APPROVAL.] Prior to July 1 of each year, the board of each district must approve and adopt its revenue and expenditure budgets for the next school year. The budget document so adopted must be considered an expenditure-authorizing or appropriations document. No funds shall be expended by any board or district for any purpose in any school year prior to the adoption of the budget document which authorizes that expenditure, or prior to an amendment to the budget document by the board to authorize the expenditure. Expenditures of funds in violation of this subdivision shall be considered unlawful expenditures. Prior to the appropriation of revenue for the next school year in the initial budget, the board shall ~~calculate the general education revenue, basic skills revenue, and referendum revenue for that year that it estimates will be generated by the pupils in attendance at each site, and shall inform the principal or other responsible administrative authority of each site of that estimate and report this information to the~~ amount of general education and referendum revenue that the Department of Education estimates will be generated by the pupils in attendance at each site. For purposes of this subdivision, a district may adjust the department's estimates for school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics not reflected in the department's calculations. A district must report to the department any adjustments it makes according to this subdivision in the department's estimates of compensatory revenue generated by the pupils in attendance at each site, and the department must use the adjusted compensatory revenue estimates in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to reports for fiscal year 2005 and later.

Sec. 5. Minnesota Statutes 2002, section 123B.82, is amended to read:

123B.82 [REORGANIZATION OPERATING DEBT.]

The "reorganization operating debt" of a school district means the net negative undesignated fund balance in all school district funds, other than ~~capital expenditure~~, building construction, debt redemption, and trust and agency, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts as of:

(1) June 30 of the fiscal year before the first year that a district receives revenue according to section 123A.39, subdivision 3; or

(2) June 30 of the fiscal year before the effective date of reorganization according to section 123A.46 or 123A.48.

Sec. 6. Minnesota Statutes 2003 Supplement, 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.

(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.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to revenue for fiscal year 2004 and later.

Sec. 7. Minnesota Statutes 2003 Supplement, section 124D.454, subdivision 2, is amended to read:

Subd. 2. **[DEFINITIONS.]** For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.00 for fiscal year 1998 and later.

(e) "Aid percentage factor" means 100 percent for fiscal year 2000 and later.

(f) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12, ~~paragraph (e)~~. This definition is not intended to change or modify the definition of essential employee in chapter 179A.

Sec. 8. Minnesota Statutes 2003 Supplement, section 126C.10, subdivision 3, is amended to read:

Subd. 3. **[COMPENSATORY EDUCATION REVENUE.]** (a) The compensatory education revenue for each building in the district equals the formula allowance minus \$415 times the compensation revenue pupil units computed according to section 126C.05, subdivision 3. Revenue shall be paid to the district and must be allocated according to section 126C.15, subdivision 2.

(b) When the district contracting with an alternative program under section 124D.69 changes prior to the start of a school year, the compensatory revenue generated by pupils attending the program shall be paid to the district contracting with the alternative program for the current school year, and shall not be paid to the district contracting with the alternative program for the prior school year.

(c) When the fiscal agent district for an area learning center changes prior to the start of a school year, the compensatory revenue shall be paid to the fiscal agent district for the current school year, and shall not be paid to the fiscal agent district for the prior school year.

Sec. 9. Minnesota Statutes 2002, section 127A.47, subdivision 3, is amended to read:

Subd. 3. **[REVENUE FOR CHILDREN OF DIVORCED OR LEGALLY SEPARATED PARENTS.]** (a) In those instances when the divorced or legally separated parents share joint physical custody of the child and the divorced or legally separated parents reside in different school districts, for all school purposes, unless otherwise specifically provided by law, the child must be considered a resident of the school district, as indicated by the child's parents.

(b) When the child of divorced or legally separated parents under paragraph (a) resides with each parent on alternate weeks, the parents shall be responsible for the transportation of the child to the border of the resident school district during those weeks when the child resides in the nonresident school district.

Sec. 10. Minnesota Statutes 2003 Supplement, section 275.065, subdivision 1, is amended to read:

Subdivision 1. [PROPOSED LEVY.] (a) Notwithstanding any law or charter to the contrary, on or before September 15, each taxing authority, other than a school district, shall adopt a proposed budget and shall certify to the county auditor the proposed or, in the case of a town, the final property tax levy for taxes payable in the following year.

(b) On or before September 30, each school district shall certify to the county auditor the proposed property tax levy for taxes payable in the following year. The school district shall certify the proposed levy as:

~~(1) the state determined school levy amount as prescribed under section 126C.13, subdivision 2; a specific dollar amount by school district fund, broken down between voter-approved and non-voter-approved levies and between referendum market value and tax capacity levies; or~~

~~(2) voter approved referendum and debt levies; and~~

~~(3) the sum of the remaining school levies, or the maximum levy limitation certified by the commissioner of education according to section 126C.48, subdivision 1, less the amounts levied under clauses (1) and (2).~~

(c) If the board of estimate and taxation or any similar board that establishes maximum tax levies for taxing jurisdictions within a first class city certifies the maximum property tax levies for funds under its jurisdiction by charter to the county auditor by September 15, the city shall be deemed to have certified its levies for those taxing jurisdictions.

(d) For purposes of this section, "taxing authority" includes all home rule and statutory cities, towns, counties, school districts, and special taxing districts as defined in section 275.066. Intermediate school districts that levy a tax under chapter 124 or 136D, joint powers boards established under sections 123A.44 to 123A.446, and Common School Districts No. 323, Franconia, and No. 815, Prinsburg, are also special taxing districts for purposes of this section.

Sec. 11. Minnesota Statutes 2003 Supplement, section 475.61, subdivision 4, is amended to read:

Subd. 4. [SURPLUS FUNDS.] (a) All such taxes shall be collected and remitted to the municipality by the county treasurer as other taxes are collected and remitted, and shall be used only for payment of the obligations on account of which levied or to repay advances from other funds used for such payments, except that any surplus remaining in the debt service fund when the obligations and interest thereon are paid may be appropriated to any other general purpose by the municipality. However, the amount of any surplus remaining in the debt service fund of a school district when the obligations and interest thereon are paid shall be used to reduce the general fund levy authorized pursuant to chapters 122A, 123A, 123B, 124D, and 126C and the state aids authorized pursuant to chapters 122A, 123A, 123B, 124D, 125A, 126C, and 127A.

~~(b) If the district qualified for second tier debt service equalization aid in the last year that it qualified for debt service equalization aid, the reduction to state aids equals the lesser of (1) the amount of the surplus times the ratio of the district's second tier debt service equalization aid to the district's second tier debt service equalization revenue for the last year that the district qualified for debt service equalization aid; or (2) the district's cumulative amount of debt service equalization aid. If the district did not qualify for second tier debt service equalization aid in the last year that it qualified for debt service equalization aid, the reduction to state aids equals the lesser of (1) the amount of the surplus times the ratio of the district's debt service equalization aid to the district's debt service equalization revenue for the last year that the district qualified for debt service equalization aid; or (2) the district's cumulative amount of debt service equalization aid.~~

(c) The reduction to the general fund levy equals the total amount of the surplus minus the reduction to state aids.

Sec. 12. [REPEALER.]

Minnesota Statutes 2002, section 126C.23, is repealed.

ARTICLE 2
EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2002, section 13.321, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] The sections referred to in subdivisions 2 to 9 10 are codified outside this chapter. Those sections classify prekindergarten to grade 12 educational data as other than public, place restrictions on access to government data, or involve data sharing.

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

Sec. 2. Minnesota Statutes 2002, section 13.321, is amended by adding a subdivision to read:

Subd. 10. [SCHOOL ACCOUNTABILITY.] Data involving school performance report cards and data involving adequate yearly progress determinations are governed by section 120B.36.

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

Sec. 3. Minnesota Statutes 2002, section 120A.22, subdivision 5, is amended to read:

Subd. 5. [AGES AND TERMS.] (a) Every child between seven and 16 years of age must receive instruction. Every child under the age of seven who is enrolled in a half-day kindergarten, or a full-day kindergarten program on alternate days, or other kindergarten programs shall receive instruction. Except as provided in subdivision 6, a parent may withdraw a child under the age of seven from enrollment at any time.

(b) Any child under the age of seven who is enrolled in school must complete a kindergarten program prior to being admitted to first grade unless this requirement is waived for an individual student by the board or the designated member of the administration of the school or school district for good cause shown.

(c) A school district by annual board action may require children subject to this subdivision to receive instruction in summer school. A district that acts to require children to receive instruction in summer school shall establish at the time of its action the criteria for determining which children must receive instruction.

[EFFECTIVE DATE.] This section is effective July 1, 2005, and applies to enrollment in a school or school district in the 2005-2006 school year and thereafter.

Sec. 4. Minnesota Statutes 2003 Supplement, section 120B.021, is amended to read:

120B.021 [REQUIRED ACADEMIC STANDARDS.]

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;
and
- (5) world languages, for which statewide or locally developed academic standards apply, as determined by the school district;
- (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; and

(7) health and physical education, for which statewide or locally developed standards apply, as determined by the school district. Beginning in the 2005-2006 school year and later, the following instructional requirements apply to all public school students. A kindergarten through grade 8 public school student must participate in physical education at least three times a week on average during the school week. A kindergarten through grade 8 public school student must participate in health education instruction at least two times a week on average during the school week.

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 for language arts, mathematics, science, social studies, and the arts 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 for language arts, mathematics, science, social studies, and the arts 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.

A school district, no later than the 2008-2009 school year, must adopt graduation requirements for world languages that meet or exceed state graduation requirements in law or rule that would apply to all students who enter the 5th grade in or after the 2008-2009 school year.

[EFFECTIVE DATE.] This subdivision is effective for the 2005-2006 school year and later.

Subd. 2. [STANDARDS DEVELOPMENT.] (a) The commissioner must consider advice from at least the following stakeholders in developing statewide rigorous core academic standards in language arts, mathematics, science, social studies, including history, geography, economics, government and citizenship, and world languages, the arts, and health and physical education:

- (1) parents of school-age children and members of the public throughout the state;
- (2) teachers throughout the state currently licensed and providing instruction in language arts, mathematics, science, social studies, world languages, or the arts and licensed elementary and secondary school principals throughout the state currently administering a school site;
- (3) currently serving members of local school boards and charter school boards throughout the state;
- (4) faculty teaching core subjects at postsecondary institutions in Minnesota; and
- (5) representatives of the Minnesota business community.

(b) Academic standards must:

- (1) be clear, concise, objective, measurable, and grade-level appropriate;
- (2) not require a specific teaching methodology or curriculum; and
- (3) be consistent with the Constitutions of the United States and the state of Minnesota.

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

Subd. 3. [RULEMAKING.] (a) The commissioner, consistent with the requirements of this section and section 120B.022, must adopt statewide rules under section 14.389 for implementing

statewide rigorous core academic standards in language arts, mathematics, ~~and the arts, and health and physical education.~~ After the rules authorized under this paragraph are initially adopted, the commissioner may not amend or repeal these rules nor adopt new rules on the same topic without specific legislative authorization. These academic standards must be implemented for all students beginning in the 2003-2004 school year. Academic standards in health and physical education must be implemented for all students beginning in the 2005-2006 school year.

(b) The rules authorized under this section are not subject to section 14.127.

Sec. 5. Minnesota Statutes 2003 Supplement, section 120B.022, subdivision 1, is amended to read:

Subdivision 1. ~~[ELECTIVE LOCAL STANDARDS.]~~ A district must establish its own standards in the following subject areas:

- ~~(1) health and physical education;~~
- ~~(2) vocational and technical education; and~~
- ~~(3) world languages.~~

A school district must offer courses in all ~~elective~~ local subject areas.

[EFFECTIVE DATE.] This section is effective for the 2005-2006 school year and later.

Sec. 6. Minnesota Statutes 2003 Supplement, 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;
- (3) three credits of science, including at least one credit in biology;
- (4) three and one-half credits of social studies, including at least one credit of United States history, one credit of geography, 0.5 credits of government and citizenship, 0.5 credits of world history, and 0.5 credits of economics; and
- (5) a minimum of eight elective course credits, including at least one credit in the arts, one credit in physical education and one credit in health education.

A course credit is equivalent to a student's successful completion of an academic year of study or a student's mastery of the applicable subject matter, as determined by the local school district.

Sec. 7. [120B.135] **[SCHOLARS OF DISTINCTION PROGRAM ADMINISTRATION.]**

(a) The commissioner shall expand the Minnesota scholars of distinction program to include mathematics, science, leadership, and theater arts in order to nurture and recognize distinguished achievement by highly motivated students in those subjects. The commissioner shall authorize the creation of statewide coordinating boards to oversee the implementation of the mathematics, science, leadership, and theater arts specialty areas for the program. Each statewide coordinating board shall include representatives of kindergarten through grade 12 schools, higher education, businesses, or others familiar with applying complex knowledge and skills to real-world problems in that specialty. Each coordinating board shall manage and implement the program so that as many kindergarten through grade 12 students as possible who are willing to commit time, rigorous study, and dedication to learning the specialty have the opportunity to participate. Each coordinating board must establish a statewide certification panel to determine whether students

have met the requirements for the particular specialty. The coordinating boards must provide assistance, if requested, to schools, community organizations, and other entities wishing to establish the program. The coordinating boards are required to seek permanent funding so that the scholars of distinction program may be permanently continued in each specialty area.

(b) For each specialty, student participants must be required to demonstrate mastery of complex subject matter and apply their knowledge and skills on challenging projects. Students who earn the scholar of distinction honor shall be awarded a small scholarship, the amount of which shall be determined by the coordinating board for the particular specialty. A notation identifying the student as a Minnesota scholar of distinction in a particular specialty must be made on the transcript of each student who successfully completes the program.

Sec. 8. Minnesota Statutes 2003 Supplement, section 120B.22, subdivision 1, is amended to read:

Subdivision 1. [VIOLENCE PREVENTION CURRICULUM.] (a) The commissioner of education, in consultation with the commissioners of health and human services, state minority councils, battered women's and domestic abuse programs, battered women's shelters, sexual assault centers, representatives of religious communities, and the assistant commissioner of the Office of Drug Policy and Violence Prevention, shall assist districts on request in developing or implementing a violence prevention program for students in kindergarten to grade 12 that can be integrated into existing curriculum. The purpose of the program is to help students learn how to resolve conflicts within their families and communities in nonviolent, effective ways.

(b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:

(1) a comprehensive, accurate, and age appropriate curriculum on violence prevention, nonviolent conflict resolution, sexual, racial, and cultural harassment, and student hazing that promotes equality, respect, understanding, effective communication, individual responsibility, thoughtful decision making, positive conflict resolution, useful coping skills, critical thinking, listening and watching skills, and personal safety;

(2) planning materials, guidelines, and other accurate information on preventing physical and emotional violence, identifying and reducing the incidence of sexual, racial, and cultural harassment, and reducing child abuse and neglect;

(3) a special parent education component of early childhood family education programs to prevent child abuse and neglect and to promote positive parenting skills, giving priority to services and outreach programs for at-risk families;

(4) involvement of parents and other community members, including the clergy, business representatives, civic leaders, local elected officials, law enforcement officials, and the county attorney;

(5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crisis services, life management skills services, case coordination services, mental health services, and early intervention services;

(6) collaboration among districts and service cooperatives;

(7) targeting early adolescents for prevention efforts, especially early adolescents whose personal circumstances may lead to violent or harassing behavior;

(8) opportunities for teachers to receive in-service training or attend other programs on strategies or curriculum designed to assist students in intervening in or preventing violence in school and at home; and

(9) administrative policies that reflect, and a staff that models, nonviolent behaviors that do not display or condone sexual, racial, or cultural harassment or student hazing; and

(10) administrative policies that reflect, and a staff that models, behaviors prohibiting intimidation and bullying as defined under section 121A.695.

(c) The department may provide assistance at a neutral site to a nonpublic school participating in a district's program.

[EFFECTIVE DATE.] This section is effective for the 2004-2005 school year and later.

Sec. 9. Minnesota Statutes 2003 Supplement, section 120B.30, subdivision 1a, is amended to read:

Subd. 1a. [STATEWIDE AND LOCAL ASSESSMENTS; RESULTS.] (a) The commissioner must develop language arts, 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, and health and physical education. The commissioner must require:

(1) annual language arts 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 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) determine whether students have met the state's basic skills requirements.

(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. 10. Minnesota Statutes 2003 Supplement, section 120B.36, is amended to read:

120B.36 [SCHOOL ACCOUNTABILITY; APPEALS PROCESS.]

Subdivision 1. [SCHOOL PERFORMANCE REPORT CARDS.] (a) The commissioner shall use objective criteria based on levels of student performance to ~~identify four to six designations applicable to high and low performing public schools~~ create school performance report cards. The objective criteria shall include at least student academic performance, school safety, and staff characteristics, with a value-added growth component added by the 2006-2007 school year.

(b) The commissioner shall develop, annually update, and post on the department Web site

school performance report cards. ~~A school's designation must be clearly stated on each school performance report card.~~

(c) The commissioner must make available the first ~~school designations and school performance report cards~~ by November 2003, and during the beginning of each school year thereafter.

(d) A school or district may appeal in writing a ~~designation report card~~ under this section to the commissioner within ~~30~~ 60 days of receiving the ~~designation report card~~. The commissioner must make a ruling on the appeal within 15 days of receiving the appeal. The commissioner's decision to uphold or deny an appeal is final. At any time, if the commissioner determines that a designation was made in error, the commissioner shall ensure that the error does not adversely affect the school's or school district's sanction status in subsequent years and must make corrections to all attributed accountability reports.

(e) School performance report cards are nonpublic data under section 13.02, subdivision 9, until the department posts the data to its public Web site. The department shall annually post school performance report cards to its public Web site no later than September 1.

(f) The commissioner may not calculate or report a simplified summary of school report cards or school results using a star or any other rating system.

Subd. 2. [ADEQUATE YEARLY PROGRESS DATA.] All data the department receives, collects, or creates for purposes of determining adequate yearly progress designations under Public Law 107-110, section 1116, are nonpublic data under section 13.02, subdivision 9, until the department posts the results of its determinations concerning yearly progress designations to its public Web site. Districts must provide parents sufficiently detailed summary data to permit parents to appeal under Public Law 107-110, section 1116(b)(2). The department shall annually post adequate yearly progress data to its public Web site no later than September 1.

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

Sec. 11. [120B.362] [VALUE ADDED ASSESSMENT PROGRAM.]

(a) The commissioner of education in consultation with the Office of Educational Accountability must develop a value added assessment program to assist public schools to assess and report growth in student academic achievement under section 120B.30, subdivision 1a. The program must utilize assessments that measure growth in student academic achievement by making longitudinal comparisons in individual student educational progress over time. School districts, schools, and charter schools may apply to participate in the program on a form and in a manner prescribed by the commissioner. Program participants must represent the urban, suburban, and rural geographic areas of the state with no more than a total of 125,000 students participating in the program.

(b) The commissioner may contract with an organization that utilizes a "value-added" assessment model that reliably estimates school and school district effects on student achievement over time for classroom settings where a single teacher teaches multiple subjects to the same group of students, for team teaching arrangements, and for other teaching circumstances. The model the commissioner selects must accommodate diverse data from various test sources and must use each student's test data across grades and subjects even when the data are incomplete.

Sec. 12. [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, verbal, 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 their person;
- (4) placing a student in reasonable fear of damage to their 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. 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 2004-2005 school year and later.

Sec. 13. Minnesota Statutes 2002, section 121A.22, subdivision 2, is amended to read:

Subd. 2. [EXCLUSIONS.] In addition, this section does not apply to drugs or medicine that are:

- (1) ~~that can be~~ purchased without a prescription;
- (2) ~~that are~~ used by a pupil who is 18 years old or older;
- (3) ~~that are~~ used in connection with services for which a minor may give effective consent, including section 144.343, subdivision 1, and any other law;
- (4) ~~that are~~ used in situations in which, in the judgment of the school personnel who are present or available, the risk to the pupil's life or health is of such a nature that drugs or medicine should be given without delay;
- (5) ~~that are~~ used off the school grounds;
- (6) ~~that are~~ used in connection with athletics or extra curricular activities;
- (7) ~~that are~~ used in connection with activities that occur before or after the regular school day;
- (8) ~~that are~~ provided or administered by a public health agency ~~in order to~~ prevent or control an illness or a disease outbreak as provided for in sections 144.05 and 144.12; ~~or~~
- (9) ~~that are~~ prescription asthma or reactive airway disease medications self-administered by a pupil with an asthma inhaler if the district has received a written authorization from the pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly labeled for that student, and the parent has not requested school personnel to administer the medication to the pupil. The parent must submit written authorization for the pupil to self-administer the medication each school year; or
- (10) prescription nonsyringe injectors of epinephrine, consistent with section 122A.2205, if the parent and prescribing medical professional annually inform the pupil's school in writing that (i) the pupil may possess the epinephrine or (ii) the pupil is unable to possess the epinephrine and requires immediate access to nonsyringe injectors of epinephrine that the parent provides properly labeled to the school for the pupil as needed.

Sec. 14. [121A.223] [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. 15. Minnesota Statutes 2002, section 121A.66, subdivision 5, is amended to read:

Subd. 5. [EMERGENCY.] "Emergency" means a any situation in which the immediate intervention use of regulated interventions as defined in Minnesota Rules, part 3525.2900, subpart 5, or other procedure is necessary to protect a pupil or other individual from physical injury or to prevent serious property damage. Emergency also includes any situation in which a law enforcement official removes a pupil from school grounds in response to the pupil's behavior on school grounds.

Sec. 16. Minnesota Statutes 2002, section 121A.66, is amended by adding a subdivision to read:

Subd. 6. [TIME OUT FOR SECLUSION.] "Time out for seclusion," as used in Minnesota Rules, part 3525.0200, subpart 25b, means the involuntary confinement of a pupil alone in a room from which the pupil is physically prevented from leaving.

Sec. 17. Minnesota Statutes 2002, section 121A.67, is amended to read:

121A.67 [AVERSIVE AND DEPRIVATION PROCEDURES.]

The commissioner, in consultation with parent organizations, advocacy groups, the Minnesota Administrators of Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, and the school principals associations, 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 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 completion of a functional behavior assessment and behavior intervention plan that is included in the individual education plan;

(3) require parents or guardians to be notified after the use of aversive or deprivation procedures in an emergency;

(4) establish health and safety standards for the use of time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, and adequate space; and

(5) contain a list of prohibited procedures;

(6) consolidate and clarify provisions relating to behavior support plans in Minnesota Rules, chapter 3525;

(7) require school districts to register with the commissioner any room used for seclusion; and

(8) require that school districts establish oversight committees to review the efficacy of behavior support plans which include use of aversive or deprivation procedures.

Sec. 18. Minnesota Statutes 2002, section 122A.16, is amended to read:

122A.16 [HIGHLY QUALIFIED TEACHER DEFINED.]

(a) A highly qualified teacher is ~~one holding~~ holds a valid license, under this chapter, to perform the particular service for which the teacher is employed in a public school.

(b) Core academic subjects under this section include English, reading, or language arts; mathematics; sciences; world languages; civics and government; economics; history; and arts including music, visual arts, theater arts, and dance.

(c) All Minnesota teachers holding licenses and teaching in a core academic subject area in which they are licensed as reported under the state's STAR system, are highly qualified.

(d) All Minnesota teachers teaching in a core academic subject area in which they are not fully licensed may complete the following HOUSSE process in the core subject area for which the teacher is requesting highly qualified status by completing an application, in the form and manner described by the commissioner, that includes:

(1) documentation of student achievement as evidenced by norm-referenced test results that are objective and psychometrically valid and reliable;

(2) evidence of local, state, or national activities, recognition, or awards for professional contribution to achievement;

(3) description of teaching experience in the teachers' core subject area in a public school under a waiver, variance, limited license or other exception; nonpublic school; and postsecondary institution;

(4) test results from the Praxis II content test;

(5) evidence of advanced certification from organizations, such as the National Board for Professional Teaching Standards (NBPTS);

(6) evidence of the successful completion of course work or pedagogy courses; and

(7) evidence of the successful completion of high quality professional development activities.

Districts must assign a school administrator to serve as a HOUSSE reviewer to meet with teachers under this paragraph and, where appropriate, certify the teachers' applications. Teachers satisfy the definition of highly qualified when the teachers receive at least 100 of the total number of points used to measure the teachers' content expertise under clauses (1) to (7). Teachers may use the HOUSSE process to satisfy the definition of highly qualified for more than one subject area in a single academic discipline. The American Board for Certification of Teaching Excellence is not recognized as an advanced certification organization in Minnesota.

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

Sec. 19. [122A.2205] [POSSESSION AND USE OF NONSYRINGE INJECTORS OF EPINEPHRINE; MODEL POLICY.]

(a) At the start of each school year or at the time a student enrolls in school, whichever is first, a student's parent, school staff including those responsible for student health care and the prescribing medical professional must develop and implement an individualized written health plan for a student who is prescribed nonsyringe injectors of epinephrine that enables the student to:

(1) possess nonsyringe injectors of epinephrine; or

(2) if the parent and prescribing medical professional determine the student is unable to possess the epinephrine, have immediate access to nonsyringe injectors of epinephrine in close proximity to the student.

The plan must designate the school staff responsible for implementing the student's health plan, including administering nonsyringe injectors of epinephrine when required, consistent with section 121A.22, subdivision 2, clause (10). This health plan may be included in a student's 504 plan.

(b) A school under this section is a public school under section 120A.22, subdivision 4, or a nonpublic school, excluding a home school, under section 120A.22, subdivision 4, that is subject

to the federal Americans with Disabilities Act. Other nonpublic schools are encouraged to develop and implement an individualized written health plan for students requiring nonsyringe injectors of epinephrine, consistent with this section and section 121A.22, subdivision 2, clause (10).

(c) A school district and its agents and employees are immune from liability for any act or failure to act, made in good faith, in implementing this section.

(d) The education commissioner may develop and transmit to interested schools a model policy and individualized health plan form consistent with this section and federal 504 plan requirements. The policy and form may:

(1) assess a student's ability to safely possess nonsyringe injectors of epinephrine;

(2) identify staff training needs related to recognizing anaphylaxis and administering epinephrine when needed;

(3) accommodate a student's need to possess or have immediate access to nonsyringe injectors of epinephrine in close proximity to the student; and

(4) ensure that the student's parent provides properly labeled nonsyringe injectors of epinephrine to the school for the student as needed.

[EFFECTIVE DATE.] This section is effective for the 2004-2005 school year and later.

Sec. 20. Minnesota Statutes 2002, section 122A.33, is amended to read:

122A.33 [LICENSE AND DEGREE EXEMPTION FOR HEAD COACH.]

Subdivision 1. [EMPLOYMENT.] Notwithstanding section 122A.15, subdivision 1, a school district may employ as a head varsity coach of an interscholastic sport at its secondary school a person who does not have a license as head varsity coach of interscholastic sports and who does not have a bachelor's degree if:

(1) in the judgment of the school board, the person has the knowledge and experience necessary to coach the sport;

(2) can verify completion of six quarter credits, or the equivalent, or 60 clock hours of instruction in first aid and the care and prevention of athletic injuries; and

(3) can verify completion of a coaching methods or theory course.

Subd. 2. [ANNUAL CONTRACT.] Notwithstanding section 122A.58, a person employed as a head varsity coach under this section has an annual contract as a coach that the school board may or may not renew as the board sees fit.

Subd. 3. [NOTICE OF NONRENEWAL; OPPORTUNITY TO RESPOND.] A school board that declines to renew the coaching contract of a licensed or nonlicensed head varsity coach must give the coach timely notice to that effect. If the coach requests reasons for not renewing the coaching contract, the board must give the coach its reasons in writing within ten days of receiving the request and provide the coach with a reasonable opportunity to respond to the reasons at a public board meeting.

[EFFECTIVE DATE.] This section is effective October 1, 2004.

Sec. 21. [122A.601] [STAFF DEVELOPMENT PROGRAM.]

Subdivision 1. [STAFF DEVELOPMENT PURPOSE, COMMITTEE, PLAN, ACTIVITIES, AND REPORT.] A school board must use the revenue authorized in section 122A.61 for promoting and sustaining results-based staff development programs under section 120B.22, subdivision 2, or for staff development plans under this section.

Subd. 2. [STAFF DEVELOPMENT PURPOSE.] Each school district must implement effective

staff development that is aligned to state and federal requirements, to significantly enhance the quality of teaching and increase the achievement of all students, including promoting academic excellence as well as eliminating differences in achievement among groups of students, such as eliminating achievement gaps. Staff development must be an integral part of each district and site improvement plan.

Subd. 3. [STAFF DEVELOPMENT COMMITTEE.] The school board, in collaboration with staff representatives, must establish a district advisory staff development committee to develop a results-driven district staff development plan for the improvement of teaching and the increased achievement of all students, including promoting academic excellence as well as eliminating differences in achievement among groups of students. Each site in a district must establish a staff development team. The required site team is assisted by the district committee in determining results-driven site staff development plans consistent with the goals of the district plan, and evaluating staff development efforts at the site level. Schools that are kindergarten through grade 12 sites may function with a single committee that serves as both the site team and the district committee. A majority of the district advisory staff development committee and the site staff development team must be teachers representing various grade levels, subject areas, special education, and personnel who work with federal programs. The district advisory committee must also include nonteaching staff, parents, paraprofessionals, and administrators.

Subd. 4. [STAFF DEVELOPMENT PLAN.] The school district and site staff development plans, which have been approved by the school board or their designee, must be based on the results of an assessment of local needs for professional development, and align with applications for federal funding submitted by the school district. The results-driven staff development plan must foster quality teaching and student achievement, and address issues related to gaps in achievement among groups of students. The needs assessment shall be conducted with the involvement of teachers and shall take into account the staff development activities that need to be conducted in order to enhance the content knowledge and teaching skills of instructional staff, and improve the leadership skills of principals to support instruction so that all students are provided the opportunity to meet state and local academic standards and achievement gaps are eliminated. The district and site plans must include staff development goals based on teaching and learning outcomes, the staff development activities for achieving the goals, and procedures at each site for annually assessing and evaluating progress toward meeting the goals. The plan must specify how the district will ensure that all of its teachers are highly qualified by 2005-2006 as required by federal law.

Subd. 5. [EFFECTIVE STAFF DEVELOPMENT ACTIVITIES.] Staff development activities that must be provided to educators are those identified as effective professional development consistent with applicable state and federal law, and may include participation in curriculum development and curriculum training programs, and activities that provide teachers and other members of site-based management teams with appropriate management and financial management skills. Staff development activities must be sustained over time, intensive, and classroom focused; one-day or short-term workshops or conferences are not acceptable unless they are aligned with the district and site plans. Staff development activities must be based on research about strategies that improve student learning. Staff development activities must incorporate characteristics linked to effective professional development that:

- (1) focus on content knowledge instructional skills;
- (2) include opportunities for teachers to practice and improve their skills, and use data to increase student achievement as part of their daily work;
- (3) build professional relationships and foster collaboration among principals and staff who provide instruction; and
- (4) align with local and state content standards.

Courses sponsored by accredited institutions of higher education must meet the criteria for effective professional development specified in applicable state and federal law and must qualify for credit.

In addition, the school district may implement other staff development activities as mandated by law.

Subd. 6. [STAFF DEVELOPMENT REPORT.] By October 15 of each year, the district and site staff development committees shall write and submit a report of staff development progress and expenditures for the previous school year, in the form and manner determined by the commissioner. The report must include assessment and evaluation data indicating progress toward district and site staff development goals based on teaching and learning outcomes, including the percentage of teachers receiving effective professional development. The report must also include the plan under subdivision 4 for the upcoming school year. The report must provide a breakdown of expenditures for: (1) curriculum development and curriculum training programs; and (2) staff development training models, workshops, and conferences, and the cost of teachers or substitute teachers for staff development purposes. Within each of these categories, the report must also indicate whether the expenditures were incurred at the district level or the school site level, and whether the school site expenditures were made possible by the grants to school sites that demonstrate exemplary use of allocated staff development revenue. These expenditures are to be reported using the Uniform Financial and Accounting and Reporting System. The commissioner shall report the staff development progress and expenditure data to the house of representatives and senate committees having jurisdiction over education by February 15 each year.

Sec. 22. Minnesota Statutes 2002, 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. 23. [123B.061] [IMPROVING STUDENT ACCESS TO SERVICES SUPPORTING ACADEMIC SUCCESS.]

(a) School districts and the Department of Education shall work to improve students' educational achievement, to provide for student safety, and to enhance student physical and emotional and social well-being by providing access to licensed student support services, including licensed school chemical health specialists, licensed school counselors, licensed school nurses, licensed school psychologists, and licensed school social workers.

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

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

(1) one licensed school nurse to 750 students;

(2) one licensed school social worker to 400 students;

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

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

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

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

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

Sec. 24. Minnesota Statutes 2002, section 123B.195, is amended to read:

123B.195 [BOARD MEMBERS' RIGHT TO EMPLOYMENT.]

Notwithstanding section 471.88, subdivision 5, a school board member may be newly employed or may continue to be employed by a school district as an employee only if there is a reasonable expectation at the beginning of the fiscal year or at the time the contract is entered into or extended that the amount to be earned by that officer in that fiscal year under that contract or employment relationship will not exceed ~~\$5,000 in that fiscal year~~ the sum of the school district's previous fiscal year's total payroll divided by the number of persons paid, multiplied by one-half. Notwithstanding section 122A.40 or 122A.41 or other law, if the officer does not receive majority approval to be initially employed or to continue in employment at a meeting at which all board members are present, that employment is immediately terminated and that officer has no further rights to employment while serving as a school board member in the district.

Sec. 25. Minnesota Statutes 2003 Supplement, 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) "On-line learning" is an interactive course or program that delivers instruction 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) "On-line 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 on-line 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) "On-line learning student" is a student enrolled in an on-line learning course or program delivered by an on-line 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. 26. Minnesota Statutes 2003 Supplement, section 124D.095, subdivision 4, is amended to read:

Subd. 4. [ON-LINE LEARNING PARAMETERS.] (a) An on-line learning student must receive academic credit for completing the requirements of an on-line learning course or program. Secondary credits granted to an on-line 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 on-line learning students, and must continue to provide nonacademic services to on-line learning students. If a student completes an on-line 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 on-line 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 on-line learning student in proportion to the number of on-line learning courses the student takes from an on-line learning provider that is not the enrolling district.

(b) An on-line learning student may:

(1) enroll during a single school year in a maximum of 12 semester-long courses or their equivalent delivered by an on-line 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) notwithstanding sections 123B.36 and 123B.37, enroll in additional courses with the on-line learning provider under a separate agreement that includes terms for payment of any tuition or course fees by the student or the parent or guardian of the student.

(c) A student with a disability may enroll in an on-line learning course or program if the student's IEP team determines that on-line learning is appropriate education for the student.

(d) An on-line 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 on-line learning provider must assist an on-line learning student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software for on-line learning purposes.

(e) An enrolling district may offer on-line learning to its enrolled students, or an intermediate district may offer on-line learning to the enrolled students in its member districts or to students in its programs. Such on-line learning does not generate on-line learning funds under this section. An enrolling district that offers on-line 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 on-line learning from an enrolling district. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.

(f) An on-line 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 on-line learning students. 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 on-line learning instruction must not instruct more than 40 students in any one on-line learning course or program.

Sec. 27. Minnesota Statutes 2003 Supplement, section 124D.095, subdivision 7, is amended to read:

Subd. 7. [DEPARTMENT OF EDUCATION.] (a) The department must review and certify on-line learning providers. The on-line learning courses and programs must be rigorous, aligned with state academic standards, and contribute to grade progression in a single subject. A provider may phase-in new academic standards as if it were a school district, according to section 120B.021, subdivision 1. On-line learning providers must affirm to the commissioner that on-line learning courses have equivalent standards or instruction, curriculum, and assessment requirements as other courses offered to enrolled students. The on-line learning provider must also demonstrate expectations for actual teacher contact time or other student-to-teacher communication. Once an on-line learning provider is approved under this paragraph, all of its on-line learning course offerings are eligible for payment under this section unless a course is successfully challenged by an enrolling district or the department under paragraph (b).

(b) An enrolling district may challenge the validity of a course offered by an on-line learning provider. The department must review such challenges based on the certification procedures under paragraph (a). The department may initiate its own review of the validity of an on-line learning course offered by an on-line learning provider.

(c) The department may collect a fee not to exceed \$250 for certifying on-line learning providers or \$50 per course for reviewing a challenge by an enrolling district.

(d) The department must develop, publish, and maintain a list of approved on-line learning providers and on-line learning courses and programs that it has reviewed and certified.

Sec. 28. Minnesota Statutes 2003 Supplement, section 124D.095, subdivision 9, is amended to read:

Subd. 9. [PAYMENT PRIORITY.] (a) To the extent funds are available, the commissioner must pay an on-line learning provider according to subdivision 8, in the order in which an on-line learning provider notifies the commissioner under subdivision 3, paragraph (b), that it is delivering

on-line learning. The on-line learning provider must submit to the commissioner any student information necessary to process payments under this section. An intermediate district may, with an agreement of individual member districts, aggregate student information from the agreeing districts in order to receive priority funding under this subdivision.

(b) Before paying other on-line learning providers under paragraph (a), the commissioner must pay providers that delivered on-line learning in fiscal year 2003. (1) First, the commissioner must pay for students who were enrolled in a Minnesota on-line learning program during fiscal year 2003 and continue to be enrolled in that on-line learning program during the current fiscal year. (2) Second, the commissioner must pay for other students enrolled in that on-line learning program during the current fiscal year. A provider's qualifying number of pupils under clauses (1) and (2) shall not exceed 100 percent of the fiscal year 2003 pupils. An on-line learning provider that qualifies under this paragraph may also submit an application for funding for additional pupils under paragraph (a).

(c) Notwithstanding paragraph (a), the commissioner may establish criteria to limit the increase in the number of qualifying pupils for an on-line learning provider to enable start-up or growth of other providers.

Sec. 29. Minnesota Statutes 2003 Supplement, 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.

[EFFECTIVE DATE.] This section is effective for the 2004-2005 school year and later.

Sec. 30. Minnesota Statutes 2002, section 124D.10, subdivision 9, is amended to read:

Subd. 9. [ADMISSION REQUIREMENTS.] A charter school may limit admission to:

- (1) pupils within an age group or grade level;
- (2) people who are eligible to participate in the graduation incentives program under section 124D.68; ~~or~~
- (3) residents of a specific geographic area where the percentage of the population of non-Caucasian people of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area; or
- (4) secondary school students who have been assessed chemically dependent and who have completed a licensed treatment program for chemical dependency.

A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. If a charter school is the only school located in a town serving pupils within a particular grade level, then pupils that are residents of the town must be

given preference for enrollment before accepting pupils by lot. If a pupil lives within two miles of a charter school and the next closest public school is more than five miles away, the charter school must give those pupils preference for enrollment before accepting other pupils by lot.

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

A charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

[EFFECTIVE DATE.] This section is effective for the 2005-2006 school year and later.

Sec. 31. [124D.105] [SPECIALIZED CHARTER SCHOOL SPONSORING ORGANIZATION.]

Subdivision 1. [ESTABLISHMENT.] A Minnesota organization, independent school district, special school district, common school district, intermediate school district, service cooperative, public or private post-secondary institution, or two or more Minnesota residents may develop and submit a proposal to become a specialized charter school sponsoring organization to the proposal review committee established under subdivision 4.

Subd. 2. [REQUIREMENTS.] A specialized charter school sponsoring organization must:

- (1) be a nonprofit entity;
- (2) have a governing board comprised of Minnesota residents;
- (3) have no geographic locus except to be located in Minnesota;
- (4) provide a framework for the creation, supervision, and support of new learning environments and schools, and for the replication of successful models;
- (5) contract with other entities to create and operate charter schools; contract with other entities to create and operate programs in new or existing schools that are in a school district or other school under subdivision 1, or a charter school that are consistent with the area of specialty of the specialized sponsoring organization; or both;
- (6) establish one or more charter schools under section 124D.10 that provide a continuous learning experience for a student from kindergarten through grade 12, taking into account the location of the school and the scope and sequence of the curriculum;
- (7) be nonsectarian in its school and programs; and
- (8) not charge tuition.

Subd. 3. [PROPOSALS.] (a) A proposal for a specialized charter school sponsoring organization must include its mission, its governing and legal structure, its budget, how it will be financed including public and private financing, how it will meet the requirements of subdivision 2.

(b) Applicants must submit proposals to the proposal review committee by October 15, 2004.

Subd. 4. [REVIEW COMMITTEE; REVIEW OF PROPOSALS.] (a) A proposal review committee is established to review proposals for specialized charter school sponsoring organizations under subdivision 3. The committee consists of six members with two members appointed by the house of representatives, two members appointed by the senate, and two members appointed by the governor.

(b) The review committee may approve the establishment of up to two specialized charter school sponsoring organizations. One of the specialized sponsoring organizations must have as its area of specialty the creation of schools that serve students in small rural school districts. One of the specialized charter school sponsoring organizations must have as its area of specialty the creation of schools that serve students from urban settings.

(c) The review committee must complete its work and report its recommendations to the legislature by March 15, 2005. The committee expires on June 30, 2005.

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

Sec. 32. Minnesota Statutes 2003 Supplement, section 124D.11, subdivision 9, is amended to read:

Subd. 9. [PAYMENT OF AIDS TO CHARTER SCHOOLS.] (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school not in its first year of operation shall be of an equal amount on each of the 23 payment dates. A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall be 90 percent of the cumulative amount guaranteed.

(b) Notwithstanding paragraph (a), for a charter school ceasing operation prior to the end of a school year, 80 percent of the amount due for the school year may be paid to the school after audit of prior fiscal year and current fiscal year pupil counts.

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

(d) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit a school calendar in the form and manner requested by the department and a quarterly report to the Department of Education. The report must list each student by grade, show the student's start and end dates, if any, with the charter school, and for any student participating in a learning year program, the report must list the hours and times of learning year activities. The report must be submitted not more than two weeks after the end of the calendar quarter to the department. The department must develop a Web-based reporting form for charter schools to use when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit a school calendar and enrollment information to the department in the form and manner requested by the department.

Sec. 33. Minnesota Statutes 2002, section 124D.69, subdivision 3, is amended to read:

Subd. 3. [UNCOMMON SCHOOLS SERVING STUDENTS WITH CHEMICAL DEPENDENCIES; ALLOCATION OF FUNDS.] In addition to the amounts provided in section 124D.68, subdivision 9, a school district may allocate funds from its undesignated general fund to a charter school or private contracted alternative program, including a charter school or private contracted alternative program that is tuition free and provides a comprehensive secondary academic program for students who have been assessed chemically dependent and who have completed a licensed treatment program for chemical dependency.

Sec. 34. [125B.30] [TECHNOLOGY INNOVATION GRANTS.]

Subdivision 1. [SCHOOL DISTRICT TECHNOLOGY INNOVATION GRANT.] (a) A school district, charter school, or a nonpublic school may apply for a grant under this subdivision to provide a wireless computing device for each student in a middle school, junior high school, or high school. Applicants receiving an award under this section shall provide the opportunity for each student to receive a wireless computing device that will remain with the student for as long as the student is enrolled in the school or district, or for the duration of the grant agreement with the state or other contracted agreement.

(b) Applicants will be eligible for a grant of up to \$..... per student in the school. In order to receive a grant, the applicant must demonstrate a local match of up to \$..... per student in the school. The local matching amount may come from state, local, or other eligible federal funds that have been allocated to the district or the school. Once awarded a grant, the applicant shall receive a decreasing grant amount each year over a three-year period as determined by the department. The applicant may also require a deposit to be paid by the student or parent.

(c) An applicant may elect to purchase or lease wireless computing devices from a vendor other than the statewide partnership described in subdivision 3, paragraph (d), if the department determines that the vendor selected by the applicant meets the requirements of this section.

Subd. 2. [APPLICATION.] To qualify for a grant under this section, the applicant shall submit an application to the department and to the Minnesota Education Telecommunications Council. The application shall include at least the following:

(1) how the applicant will provide the opportunity for each pupil in the school to receive a wireless computing device;

(2) a plan demonstrating how the applicant will use the wireless computing device to increase overall student achievement, help improve adequate yearly progress as determined by the department, and decrease the student achievement gap in the school or district;

(3) a plan for teacher professional development on technology integration, content and curriculum, and communication with parents;

(4) a three-year to five-year plan for increasing the local share of expenses for the wireless computer program;

(5) how the applicant will amend its local technology plan as required under state and federal law to reflect the wireless computer program;

(6) a plan to provide adequate insurance coverage for the computer equipment;

(7) a policy for appropriate use of computer equipment for students; and

(8) a plan for providing low-cost or free Internet access to students.

Subd. 3. [DEPARTMENT OF EDUCATION.] (a) The department, in consultation with the Minnesota Education Telecommunications Council, shall develop, implement, and operate the technology innovation grant program and make program grants. The department shall sign a memorandum of understanding with the Minnesota Education Telecommunications Council that provides for joint administration of program grants under this section.

(b) The department, in consultation with the Minnesota Education Telecommunications Council, shall award grants under this section from state appropriations for this purpose and from the eligible funds under the federal Department of Education, title II, part D, educational technology grant funds. The department shall consider regional diversity in awarding grants.

(c) The department shall identify private insurance providers that will provide adequate insurance coverage for the wireless computing devices used by grant recipients.

(d) By August 1, 2004, the department, in consultation with the Minnesota Education Telecommunications Council, shall select a program partner through a request for proposals process for a total learning technology package that includes, but is not limited to, a wireless computing device, software, professional development, service and support, and for management for the overall implementation of the technology innovation grant program. The private partner selected in the request for proposals shall demonstrate significant efficiencies and economies of scale and must have experience in the development and successful implementation of large-scale, school-based wireless technology projects.

(e) The department and the Minnesota Education Telecommunications Council shall seek other private, corporate, and other federal funding sources to supplement the grant awards under this section.

Sec. 35. Minnesota Statutes 2003 Supplement, section 128C.05, subdivision 1a, is amended to read:

Subd. 1a. [SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.] Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that was used for a

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 unless a pool that meets the requirements of Minnesota Rules, part 4717.3750, is located within the school district. A school or district using a pool for supervised training practice for competitive high school diving that does not meet the requirements of the rule 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. 36. Minnesota Statutes 2002, 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.

Notwithstanding the exclusion for community services or community education instruction in item (i) or clauses (e) and (f), individuals providing early childhood and family education through community education programs in a position for which section 122A.26, requires a license by the Board of Teaching or the commissioner of education are public employees.

Sec. 37. Minnesota Statutes 2003 Supplement, section 179A.03, subdivision 18, is amended to read:

Subd. 18. [TEACHER.] "Teacher" means any public employee other than a superintendent or assistant superintendent, principal, assistant principal, or a supervisory or confidential employee, employed by a school district:

(1) in a position for which the person must be licensed by the Board of Teaching or the commissioner of education; or

(2) in a position as a physical therapist ~~or~~, an occupational therapist, or as a nonlicensed community expert.

Sec. 38. [MODEL POLICY.]

The commissioner of education shall work with the Minnesota School Boards Association in developing a model policy prohibiting intimidating and bullying as required in Minnesota Statutes, section 121A.0695, subdivision 2.

Sec. 39. [PROPOSED ACADEMIC STANDARDS; IMPLEMENTATION TIME LINE.]

(a) The commissioner of education must submit proposed academic standards in world languages to the legislature by February 1, 2005.

(b) Beginning July 1, 2004, the commissioner of education must make federal Title II funds available for staff development through the quality teaching network for world languages.

(c) The commissioner of education shall designate a full-time state coordinator for world languages education within the department by July 1, 2005. The commissioner shall seek input from the quality teaching network before designating or hiring the coordinator. The coordinator, at a minimum, shall:

(1) assist districts in developing plans for phasing in world languages as a required academic standard;

(2) work in cooperation with Minnesota world languages professionals in developing all aspects of the state's world languages program;

(3) survey school districts in the state in order to determine the types of existing world languages programs, identify exemplary model world languages programs, and identify and address staff development needs of current world languages teachers and preservice teachers;

- (4) recommend minimum proficiency levels for meeting state world languages standards;
- (5) identify successful world languages programs from other states; and
- (6) develop and implement grant program for model pilot world languages programs under section 40.

(d) Beginning July 1, 2006, the commissioner shall initiate and guide efforts to develop and adopt assessment tools for use by school districts to measure student progress in world languages. The commissioner shall consider existing assessments in developing and recommending statewide world languages assessments.

(e) Beginning July 1, 2007, the department shall offer to teachers of world languages and other school district staff, workshops and other consultation assisting districts in implementing their world languages programs. Each district shall submit a plan describing how it will fully implement the required world languages standards to the department by June 1, 2008.

(f) Beginning July 1, 2008, the department shall evaluate district implementation plans and continue to offer workshops and consultation assisting districts implementing their world languages programs. The department shall also assist districts in selecting assessment tools and monitoring local results of the assessments.

Sec. 40. [GRANTS FOR PILOT WORLD LANGUAGES PROGRAMS.]

(a) The commissioner of education shall award grants to school districts and charter schools to develop model world languages programs and model plans for implementing world languages as a required standard. The commissioner shall begin awarding grants in the 2006-2007 school year.

(b) Grants shall be awarded for two categories of pilot programs:

- (1) school sites or districts that want to add world languages programs; and
- (2) school sites and districts that want to expand existing world languages programs.

The commissioner shall award at least one grant for each category to a school site or district in each of the state congressional districts.

(c) The commissioner shall use federal education revenues, where allowed, to award grants under this section. The commissioner and the state coordinator shall also seek other private funds for awarding grants under this section.

(d) The commissioner shall establish the form and manner of all other aspects of the grant program.

Sec. 41. [COMMISSIONER OF EDUCATION REQUIREMENTS.]

The commissioner must provide a report to the committees of the legislature having jurisdiction over kindergarten through grade 12 education policy and budget issues by February 1, 2005, that:

(1) recommends a plan for incorporating value-added measures of student achievement into the state's annual adequate yearly progress determination process. The commissioner's recommendation must include:

- (i) the criteria that would be used to assess adequate growth, using a value-added measure; and
- (ii) policies to ensure that adequate growth can be measured with valid and reliable methods.

By January 1, 2005, the commissioner shall also seek a waiver from the federal Department of Education that would allow the state to use a value-added measurement of student achievement for determining adequate yearly progress as required under the federal No Child Left Behind Act;

(2) recommends a plan to monitor the quality of results achieved by supplemental educational service providers that have been approved by the department under Title I, Part A, of the No Child

Left Behind Act. The commissioner shall also include in its recommendation proposed rules as authorized under Laws 2003, chapter 129, article 2, section 3;

(3) in cooperation with the Office of Education Accountability, evaluates the validity of the state's accountability system. The commissioner must also include in the report the results of any other outside evaluations solicited by the department, as reported to the federal Department of Education in the state plan for implementing the No Child Left Behind Act; and

(4) identifies, at a minimum, the expenditures incurred by the department and school districts, regardless of funding source, to comply with sanctions required under the No Child Left Behind Act for low-performing schools.

Sec. 42. [MINNESOTA COMPREHENSIVE ASSESSMENTS.]

Subdivision 1. [TEST DEVELOPMENT MORATORIUM.] Notwithstanding Minnesota Statutes, section 120B.30, the commissioner of education must not develop any new Minnesota comprehensive assessments.

Subd. 2. [NEW TESTS.] Beginning in the 2004-2005 school year and later, the commissioner and school districts must administer the measures of academic progress (MAP) tests as the statewide exams required under the federal No Child Left Behind Act. Before the tests are administered, the commissioner must assure the MAP tests will be highly correlated to Minnesota's academic standards adopted under Minnesota Statutes, section 120B.021, and that a student's parent or guardian may examine the actual test items and answers of the student.

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

Sec. 43. [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 their 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 Minnesota Statutes, section 123B.04, including an achievement contract under Minnesota Statutes, section 123B.04, subdivision 4. The site decision-making team shall include the principal 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

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2002, section 121A.45, subdivision 3, is amended to read:

Subd. 3. [PARENT NOTIFICATION AND MEETING.] If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian ~~prior to~~ before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. ~~The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.~~

Sec. 2. Minnesota Statutes 2002, section 125A.023, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section and section 125A.027, the following terms have the meanings given them:

(a) "Health plan" means:

- (1) a health plan under section 62Q.01, subdivision 3;
- (2) a county-based purchasing plan under section 256B.692;
- (3) a self-insured health plan established by a local government under section 471.617; or
- (4) self-insured health coverage provided by the state to its employees or retirees.

(b) For purposes of this section, "health plan company" means an entity that issues a health plan as defined in paragraph (a).

(c) "Individual interagency intervention plan" means a standardized written plan describing those programs or services and the accompanying funding sources available to eligible children with disabilities.

(d) "Interagency intervention service system" means a system that coordinates services and programs required in state and federal law to meet the needs of eligible children with disabilities ages ~~three to~~ birth through 21, including:

(1) services provided under the following programs or initiatives administered by state or local agencies:

(i) the maternal and child health program under title V of the Social Security Act, ~~United States Code, title 42, sections 701 to 709;~~

(ii) the Minnesota Children with Special Health Needs program under sections 144.05 and 144.07;

(iii) ~~the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33, subchapter II, sections 1411 to 1420, Part B, section 619, and Part C as amended;~~

~~(iii)~~ (iv) medical assistance under title 42, chapter 7, of the Social Security Act, ~~United States Code, title 42, chapter 7, subchapter XIX, section 1396, et seq.;~~

~~(iv)~~ (v) the developmental disabilities Assistance and Bill of Rights Act, ~~United States Code, title 42, chapter 75, subchapter II, sections 6021 to 6030, Part B~~ services under chapter 256B;

~~(v)~~ (vi) the Head Start Act, ~~United States Code, title 42, chapter 105, subchapter II, sections 9831 to 9852~~ under title 42, chapter 105, of the Social Security Act;

~~(vi)~~ (vii) vocational rehabilitation services provided under ~~chapter~~ chapters 248 and 268A and the Rehabilitation Act of 1973;

~~(vii)~~ (viii) Juvenile Court Act services provided under sections 260.011 to 260.91; 260B.001 to 260B.446; and 260C.001 to 260C.451;

~~(viii)~~ the children's mental health collaboratives under section 245.493;

~~(ix)~~ the family service collaboratives under section 124D.23;

~~(x)~~ the family community support plan under section 245.4881, subdivision 4;

~~(xi)~~ the MinnesotaCare program under chapter 256L;

~~(xii)~~ (ix) Minnesota Comprehensive Children's Mental Health Act under section 245.487;

(x) the community health services grants under chapter 145 sections 145.88 to 145.9266;

~~(xiii)~~ the Community Social Services Act funding under the Social Security Act, United States Code, title 42, sections 1397 to 1397f; and

~~(xiv)~~ the community transition interagency committees under section 125A.22;

(xi) the Local Public Health Act under chapter 145A; and

(xii) the Children and Community Services Act, sections 256M.60 to 256M.80;

(2) service provision and funding that can be coordinated through:

(i) the children's mental health collaborative under section 245.493;

(ii) the family services collaborative under section 124D.23;

(iii) the community transition interagency committees under section 125A.22; and

(iv) the interagency early intervention committees under section 125A.259;

(3) financial and other funding programs to be coordinated including medical assistance under title 42, chapter 7, of the Social Security Act, the MinnesotaCare program under chapter 256L, Supplemental Social Security Income, Developmental Disabilities Assistance, and any other employment-related activities associated with the Social Security Administration; and services provided under a health plan in conformity with an individual family service plan or an individual education plan or an individual interagency intervention plan; and

~~(3)~~ (4) additional appropriate services that local agencies and counties provide on an individual need basis upon determining eligibility and receiving a request from the interagency early intervention committee and the child's parent.

(e) "Children with disabilities" has the meaning given in section 125A.02.

(f) A "standardized written plan" means those individual services or programs available through the interagency intervention service system to an eligible child other than the services or programs described in the child's individual education plan or the child's individual family service plan.

Sec. 3. Minnesota Statutes 2003 Supplement, section 125A.023, subdivision 4, is amended to read:

Subd. 4. [STATE INTERAGENCY COMMITTEE.] (a) The governor shall convene a ~~19-member~~ interagency committee to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages ~~three to~~ birth through 21 with disabilities. The commissioners of ~~commerce~~, education, health, ~~human rights~~, human services, ~~economic security~~, and ~~corrections~~ employment and economic development shall each appoint two committee members from their departments; the commissioners of corrections, human rights, and commerce shall each appoint one member from their departments; the Association of Minnesota Counties shall appoint two county representatives, one of whom must be an elected

official, as committee members; and the Minnesota School Boards Association, the Minnesota Administrators of Special Education, and the School Nurse Association of Minnesota shall each appoint one committee member; the governor shall appoint two parent representatives of a child or youth who is eligible for special education and is receiving coordinated services from public agencies. The committee shall select a chair from among its members.

(b) The committee shall:

(1) identify and assist in removing state and federal barriers to local coordination of services provided to children with disabilities;

(2) identify adequate, equitable, and flexible funding sources to streamline these services;

(3) develop guidelines for implementing policies that ensure a comprehensive and coordinated system of all state and local agency services, including multidisciplinary assessment practices for children with disabilities ages three to 21;

(4) develop, consistent with federal law, a standardized written plan for providing services to a child with disabilities;

(5) identify how current systems for dispute resolution can be coordinated and develop guidelines for that coordination;

(6) develop an evaluation process to measure the success of state and local interagency efforts in improving the quality and coordination of services to children with disabilities ages three to 21;

(7) develop guidelines to assist the governing boards of the interagency early intervention committees in carrying out the duties assigned in section 125A.027, subdivision 1, paragraph (b); and

(8) carry out other duties necessary to develop and implement within communities a coordinated, multidisciplinary, interagency intervention service system for children with disabilities.

(c) The committee shall consult on an ongoing basis with the state Education Advisory Committee for Special Education and the governor's Interagency Coordinating Council in carrying out its duties under this section, including assisting the governing boards of the interagency early intervention committees.

Sec. 4. Minnesota Statutes 2002, section 125A.03, is amended to read:

125A.03 [SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.]

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability, including providing required services under Code of Federal Regulations, title 34, section 300.121(d), to those children suspended or expelled from school for more than ten school days in that school year, who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state education code means a free and appropriate public education provided to an eligible child with disabilities and includes special education and related services defined in the Individuals with Disabilities Education Act, subpart A, section 300.24.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until July 1 after the child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

Sec. 5. Minnesota Statutes 2002, section 125A.22, is amended to read:

125A.22 [COMMUNITY TRANSITION INTERAGENCY COMMITTEE.]

A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, must establish a community transition interagency committee for youth with disabilities, beginning at grade 9 or age equivalent, and their families. Members of the committee must consist of representatives from special education, vocational and regular education, community education, postsecondary education and training institutions, mental health adults with disabilities who have received transition services if such persons are available, parents of youth with disabilities, local business or industry, rehabilitation services, county social services, health agencies, and additional public or private adult service providers as appropriate. The committee must elect a chair and must meet regularly. The committee must:

- (1) identify current services, programs, and funding sources provided within the community for secondary and postsecondary aged youth with disabilities and their families;
- (2) facilitate the development of multiagency teams to address present and future transition needs of individual students on their individual education plans;
- (3) develop a community plan to include mission, goals, and objectives, and an implementation plan to assure that transition needs of individuals with disabilities are met;
- (4) recommend changes or improvements in the community system of transition services;
- (5) exchange agency information such as appropriate data, effectiveness studies, special projects, exemplary programs, and creative funding of programs; and
- (6) following procedures determined by the commissioner, prepare a yearly summary assessing the progress of transition services in the community including follow-up of individuals with disabilities who were provided transition services to determine postschool outcomes. The summary must be disseminated to all adult services agencies involved in the planning and to the commissioner by October 1 of each year.

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

ARTICLE 4

STATE AGENCIES

Section 1. Minnesota Statutes 2002, section 122A.20, subdivision 2, is amended to read:

Subd. 2. [MANDATORY REPORTING.] A school board must report to the Board of Teaching, the Board of School Administrators, or the Board of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction over the teacher's or administrator's license, when its teacher or administrator is discharged or resigns from employment after a charge is filed with the school board under section 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, and after charges are filed that are ground for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation is pending under section 122A.40, subdivision 13, paragraph (a) clauses (1) to (5); 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7; or 626.556. The report must be made to the appropriate licensing board within ten days after the discharge, suspension, or resignation has occurred. The licensing board to which the report is made must investigate the report for violation of subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the license, a board or school superintendent shall provide the licensing board with information about the teacher or administrator from the district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written

request from the appropriate licensing board, a board or school superintendent may, at the discretion of the board or school superintendent, solicit the written consent of a student and the student's parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

The licensing board to which a report is made must transmit to the Attorney General's Office any record or data it receives under this subdivision for the sole purpose of having the Attorney General's Office assist that board in its investigation. When the Attorney General's Office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's or administrator's license within 45 days of receiving a stipulation executed by the teacher or administrator under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

Sec. 2. Minnesota Statutes 2002, section 123B.71, subdivision 9, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) a specification, if applicable, of how the facility will utilize environmentally sustainable school facility design concepts; and

(14) a specification of how the facility will follow the American National Standard acoustical performance criteria, design requirements, and guidelines for schools.

Sec. 3. [TRANSFER OF POWERS.]

All powers, duties, and obligations of the commissioner of education with respect to the Indian scholarship program under Minnesota Statutes, section 124D.84, is transferred to the higher education services offices under Minnesota Statutes, section 15.039. The office for administering the program shall be located in the city of Bemidji.

Sec. 4. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall renumber Minnesota Statutes, section 124D.84, as Minnesota Statutes, section 136A.147, and correct references to this section in Minnesota Statutes and Minnesota Rules. The revisor shall delete "commissioner" and "commissioner of education" and substitute "higher education services office" in Minnesota Statutes, section 124D.84.

Sec. 5. [EFFECTIVE DATE.]

This act is effective the day following final enactment.

ARTICLE 5

K-12 SCIENCE AND SOCIAL STUDIES STANDARDS

Section 1. Minnesota Statutes 2003 Supplement, section 120B.021, subdivision 3, is amended to read:

Subd. 3. [RULEMAKING.] (a) The commissioner, consistent with the requirements of this section and section 120B.022, must adopt statewide rules under section 14.389 for implementing statewide rigorous core academic standards in language arts, mathematics, science, social studies, and the arts. After the rules authorized under this paragraph are initially adopted, the commissioner may not amend or repeal these rules nor adopt new rules on the same topic without specific legislative authorization. These The academic standards for language arts, mathematics, and the arts must be implemented for all students beginning in the 2003-2004 school year. The academic standards for science and social studies must be implemented for all students beginning in the 2005-2006 school year.

(b) The rules authorized under this section are not subject to section 14.127.

Sec. 2. Minnesota Statutes 2003 Supplement, section 120B.30, subdivision 1a, is amended to read:

Subd. 1a. [STATEWIDE AND LOCAL ASSESSMENTS; RESULTS.] (a) The commissioner must develop language arts, 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 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 the ~~grades 10 through 12 span~~ a grade 11 life sciences assessment 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) determine whether students have met the state's basic skills requirements.

(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. 3. [MINNESOTA'S HIGH ACADEMIC STANDARDS.]

(a) The standards for science and social studies adopted by the commissioner of education under Minnesota Statutes, section 120B.021, must be identical to:

(1) the K-12 standards for science contained in the document labeled "Minnesota Academic Standards, Science K-12, December 19, 2003, Minnesota Academic Standards Committee, Minnesota Department of Education"; and

(2) the K-12 standards for social studies contained in the document labeled "Minnesota Council and Social Studies Teachers Academic Standards, March 26, 2003."

(b) The K-12 standards documents must be deposited with the Minnesota revisor of statutes, the Legislative Reference Library, and the Minnesota State Law Library, where the documents shall be maintained until the commissioner adopts rules for implementing statewide rigorous core academic standards in science and social studies under Minnesota Statutes, section 120B.021, subdivision 3. The revisor must determine that the rules are identical to the documents deposited with it under this section before the revisor approves the form of the rules. In approving the form of the rules, the revisor may make any needed grammatical and form changes.

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

Sec. 4. [K-12 SOCIAL STUDIES STANDARDS RULES.]

(a) Beginning no later than July 1, 2004, the education commissioner shall adopt the K-12 academic social studies standards incorporated by reference under this act using the expedited process under Minnesota Statutes, section 14.389.

(b) In addition to technical changes, corrections, clarifications, and similarly needed revisions, the revisor shall modify the K-12 academic social studies standards to allow school districts to

place the standards in the following grade bands to accommodate their particular curriculum. The standards should be mastered by the end of the highest grade in the band.

Sec. 5. [K-12 SCIENCE STANDARDS RULES.]

(a) Beginning no later than July 1, 2004, the education commissioner shall adopt the K-12 academic science standards incorporated by reference under this act using the expedited process under Minnesota Statutes, section 14.389.

(b) In addition to technical changes, corrections, clarifications, and similarly needed revisions, the revisor shall modify the K-12 academic science standards to allow school districts to place the standards in the following grade bands: K-2, 3-5, 6-9, and 10-12. The standards should be mastered by the end of the highest grade in the band. Earth science is optional in grades 9 through 12."

Delete the title and insert:

"A bill for an act relating to education; providing for kindergarten through grade 12 education, including general education, education excellence, special programs, and state agencies; appropriating money; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding a subdivision; 120A.22, subdivision 5; 121A.22, subdivision 2; 121A.45, subdivision 3; 121A.66, subdivision 5, by adding a subdivision; 121A.67; 122A.16; 122A.20, subdivision 2; 122A.33; 123B.02, by adding a subdivision; 123B.195; 123B.53, subdivision 6; 123B.71, subdivision 9; 123B.76, by adding a subdivision; 123B.82; 124D.10, subdivision 9; 124D.69, subdivision 3; 125A.023, subdivision 3; 125A.03; 125A.22; 127A.47, subdivision 3; 179A.03, subdivision 14; Minnesota Statutes 2003 Supplement, sections 120B.021, subdivision 3; 120B.022, subdivision 1; 120B.024; 120B.22, subdivision 1; 120B.30, subdivision 1a; 120B.36; 123B.77, subdivision 4; 124D.095, subdivisions 2, 4, 7, 9; 124D.10, subdivision 3; 124D.11, subdivisions 1, 9; 124D.454, subdivision 2; 125A.023, subdivision 4; 126C.10, subdivision 3; 128C.05, subdivision 1a; 179A.03, subdivision 18; 275.065, subdivision 1; 475.61, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 120B; 121A; 122A; 123B; 124D; 125B; repealing Minnesota Statutes 2002, sections 122A.60; 126C.23."

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

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2347, 2790, 2499, 2449, 1976, 1385, 2898, 2422, 1693, 1999, 2866, 2453, 2068, 2211, 1334, 2342, 2122, 2733, 2274, 2210, 457, 1813, 1584, 1788, 1674 and 1268 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1721, 2296, 2207, 1978, 2521, 2551, 1898 and 1710 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Rest moved that her name be stricken as chief author, shown as a co-author, and the name of Senator Moua be shown as chief author to S.F. No. 996. The motion prevailed.

Senator Sparks moved that the name of Senator Gaither be added as a co-author to S.F. No. 1570. The motion prevailed.

Senator Neuville moved that the name of Senator Hottinger be added as a co-author to S.F. No. 1916. The motion prevailed.

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

Senator Pappas moved that the name of Senator Robling be added as a co-author to S.F. No. 3005. The motion prevailed.

Senator Johnson, D.E. moved that H.F. No. 1836 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 1693, now on the Consent Calendar. The motion prevailed.

Senator Vickerman moved that S.F. No. 2978 be withdrawn from the Committee on Agriculture, Veterans and Gaming and re-referred to the Committee on Taxes. The motion prevailed.

Senator Johnson, D.E. moved that H.F. No. 2930 be withdrawn from the Committee on State and Local Government Operations and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 2733, now on General Orders. The motion prevailed.

Senator Wiger introduced--

Senate Resolution No. 129: A Senate resolution recognizing and commemorating the life of John W. Connelly and his outstanding commitment and dedication to the city of St. Paul and for his leadership and guidance in many civic affairs.

Referred to the Committee on Rules and Administration.

Senator Kelley introduced--

Senate Resolution No. 130: A Senate resolution congratulating the Breck School Girls Basketball Team on winning the 2004 State High School Class AA Girls Basketball Championship.

Referred to the Committee on Rules and Administration.

Senator Kelley introduced--

Senate Resolution No. 131: A Senate resolution congratulating the Breck High School boys hockey team on winning the 2004 State High School Class A Hockey Tournament.

Referred to the Committee on Rules and Administration.

Senator Kelley introduced--

Senate Resolution No. 132: A Senate resolution congratulating the Hopkins High School girls basketball team on winning the 2004 State High School Class 4A girls basketball tournament.

Referred to the Committee on Rules and Administration.

Senator Johnson, D.E. moved that H.F. No. 2906 be withdrawn from the Committee on State and Local Government Operations and re-referred to the Committee on Judiciary. The motion prevailed.

Senator Ortman moved that S.F. No. 2079 be withdrawn from the Committee on Crime Prevention and Public Safety and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Jungbauer introduced--

S.F. No. 3007: A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for the Northstar Rail Corridor.

Referred to the Committee on Finance.

Senator Rest introduced--

S.F. No. 3008: A bill for an act relating to tax increment financing; modifying the definition of structurally substandard buildings; amending Minnesota Statutes 2003 Supplement, section 469.174, subdivision 10.

Referred to the Committee on Taxes.

Senators Pariseau, Knutson, Bachmann, McGinn and Limmer introduced--

S.F. No. 3009: A bill for an act relating to crime prevention and public safety; providing for increased mandatory minimum prison sentences for persons convicted of committing certain offenses with firearms; requiring a public awareness campaign regarding the increased sentences; amending Minnesota Statutes 2002, section 609.11, subdivisions 5, 7, 8, 10; repealing Minnesota Statutes 2002, section 609.11, subdivision 1.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Higgins and Moua introduced--

S.F. No. 3010: A bill for an act relating to appropriations; appropriating money for the Hmong community center in north Minneapolis.

Referred to the Committee on Finance.

Senators Rosen, Kleis and McGinn introduced--

S.F. No. 3011: A bill for an act relating to taxation; sales and use; exempting sales of stoves that burn certain biomass fuels; amending Minnesota Statutes 2002, section 297A.67, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Robling and Day introduced--

S.F. No. 3012: A bill for an act relating to state government; requiring state employees to reimburse the employer for personal use of state vehicles; amending Minnesota Statutes 2002, section 16B.55, subdivision 3.

Referred to the Committee on State and Local Government Operations.

Senator Bakk introduced--

S.F. No. 3013: A bill for an act relating to local government aid; clarifying that railroad property is included in measures of commercial industrial property; amending Minnesota Statutes 2002, section 477A.011, subdivision 32.

Referred to the Committee on Taxes.

Senator Marko introduced--

S.F. No. 3014: A bill for an act relating to taxation; providing that certain personal property of an electric generation facility is exempt from property taxation; amending Minnesota Statutes 2002, section 272.02, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Marko introduced--

S.F. No. 3015: A bill for an act relating to taxation; providing an exemption from sales and use taxation of purchases for certain electric general facilities; amending Minnesota Statutes 2002, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Tomassoni and Sparks introduced--

S.F. No. 3016: A bill for an act relating to unemployment insurance; extending exception for certain wage credits earned; amending Laws 2002, chapter 380, article 1, section 3.

Referred to the Committee on Jobs, Energy and Community Development.

MEMBERS EXCUSED

Senator Gaither was excused from the Session of today.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 12:00 noon, Wednesday, March 31, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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