

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

NINETY-THIRD DAY

St. Paul, Minnesota, Monday, April 19, 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, Pastor Paul Hadland.

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

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committees indicated.

March 4, 2004

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

EMERGENCY MEDICAL SERVICES REGULATORY BOARD

Bonnie Bleskachek, 3608 Clinton Ave. S., Minneapolis, in the county of Hennepin, effective March 9, 2004, for a term that expires on January 7, 2008.

Brenda Brown, 305 Marsh St., Tyler, in the county of Lincoln, effective March 9, 2004, for a term that expires on January 7, 2008.

Koren L. Kaye, M.D., 645 E. County Rd. B2, Little Canada, in the county of Ramsey, effective March 9, 2004, for a term that expires on January 7, 2008.

Brian R. Moore, M.D., 200 - 1st St. S.W., Rochester, in the county of Olmsted, effective March 9, 2004, for a term that expires on January 7, 2008.

(Referred to the Committee on Health and Family Security.)

March 26, 2004

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

BOARD OF TEACHING

Jim Bartholomew, 6205 Chowen Ave. S., Edina, in the county of Hennepin, effective April 2, 2004, for a term that expires on January 7, 2008.

Janet Schutz, 865 Navajo Rd., Medina, in the county of Hennepin, effective April 2, 2004, for a term that expires on January 7, 2008.

(Referred to the Committee on Education.)

April 12, 2004

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

**MINNESOTA HIGHER EDUCATION SERVICES OFFICE
DIRECTOR**

Susan Heegaard, 1742 Hartford Ave., St. Paul, in the county of Ramsey, effective March 1, 2004, for a term that is coterminous with the Governor's term and expires on January 1, 2007.

(Referred to the Committee on Education.)

Sincerely,
Tim Pawlenty, Governor

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 806: A bill for an act relating to retirement; various retirement plans; modifying the responsibilities to provide actuarial valuations and proposed legislative cost estimates; amending Minnesota Statutes 2002, sections 352.03, subdivision 6; 352B.02, subdivision 1e; 353.03, subdivision 3a; 354.06, subdivision 2a; 354A.021, subdivision 7; 356.215, subdivisions 2, 18; 422A.06, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 356.217.

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

Page 15, after line 35, insert:

"Sec. 10. [APPROPRIATION REDUCTION.]

The general fund appropriation in Laws 2003, First Special Session chapter 1, article 1, section 2, subdivision 4, for the fiscal year ending June 30, 2005, is reduced by \$152,000."

Page 16, line 4, delete "10" and insert "11"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "reducing an appropriation;"

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. 2038: A bill for an act relating to claims against the state; providing for settlement of various claims; 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. [DEPARTMENT OF CORRECTIONS.]

The amounts in this section are appropriated from the general fund to the commissioner of corrections in fiscal year 2005 as full and final payment under Minnesota Statutes, section 3.739, of claims against the state for injuries suffered by and medical services provided to persons injured while performing community service or sentence-to-service work for correctional purposes or while incarcerated in a correctional facility.

(a) For claims already paid by the department, \$1,304.84.

(b) For payment to William Brown for a permanent partial disability suffered while performing community service work in Carlton County, \$35,090.

(c) For payment to Jaamal Ali, for a permanent partial disability suffered while performing sentence-to-service work in Olmsted County, \$850; and for medical services provided to Jaamal Ali, \$2,974.35.

(d) For payment to D. W., a juvenile, for a permanent partial disability suffered while performing community service work in Stearns County, \$5,800.

(e) For payment to Jim Gibson, for a permanent partial disability suffered while performing duties at the Minnesota Correctional Facility - Lino Lakes, \$3,187.50.

(f) For payment to Michael Harper, for a permanent partial disability suffered while performing sentence-to-service work in Washington County, \$750; and for medical services provided to Michael Harper, \$1,061.25.

(g) For payment to Jeffie King, for a permanent partial disability suffered while performing duties at the Minnesota Correctional Facility - Stillwater, \$9,350.

(h) For payment to Joe Rodriguez, for a permanent partial disability suffered while performing duties at the Minnesota Correctional Facility - Moose Lake, \$247.50.

(i) For payment to Steven Rosoff for a permanent partial disability suffered while performing sentence-to-service work in Hennepin County, \$7,200.

Sec. 2. [DEPARTMENT OF NATURAL RESOURCES.]

Subdivision 1. [BODE CLAIM.] (a) \$27,000 is appropriated from the general fund to the commissioner of natural resources in fiscal year 2005 for payment to Linda and Judy Bode of Nicollet, Minnesota, for expenses incurred during the pendency of appeal of the public waters hearing panel decision as a full and final settlement of their claim against the state.

(b) The Office of Administrative Hearings shall assign an administrative law judge to determine, after a hearing, whether that portion of the area designated as Wetland 52-26 by the Department of Natural Resources that is located on the Bode farm is a public waters wetland. In making that determination, the administrative law judge must use the definition of "wetlands" in Minnesota Statutes 1980, section 105.37, subdivision 15. The determination of the administrative law judge is final.

Subd. 2. [PETTY CLAIM.] \$38,118.57 is appropriated from the general fund to the commissioner of natural resources in fiscal year 2005 for payment to Petty and Sons Timber Products, Inc. of Wahkon, Minnesota, as a full and final settlement of its claim against the state for losses suffered because of a moratorium imposed on raising logs from Minnesota lake bottoms.

Subd. 3. [SHOEN CLAIM.] \$1,353.26 is appropriated from the general fund to the commissioner of natural resources in fiscal year 2005 for payment to Samuel and June Shoen of Angle Inlet, Minnesota, as a full and final settlement of their claim against the state for reimbursement of trespass fines paid during settlement of a land exchange."

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. 2139 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS

H.F. No. S.F. No.
2139 2257

CONSENT CALENDAR

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

CALENDAR

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

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 2213 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS

H.F. No.	S.F. No.
2213	2210

CONSENT CALENDAR

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

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

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

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

H.F. No. 2050 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS

H.F. No.	S.F. No.
2050	1715

CONSENT CALENDAR

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

H.F. No.	S.F. No.
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Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2050 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2050 and insert the language after the enacting clause of S.F. No. 1715; further, delete the title of H.F. No. 2050 and insert the title of S.F. No. 1715.

And when so amended H.F. No. 2050 will be identical to S.F. No. 1715, and further recommends that H.F. No. 2050 be given its second reading and substituted for S.F. No. 1715, 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. 2391 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS

H.F. No.	S.F. No.
2391	2192

CONSENT CALENDAR

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

H.F. No.	S.F. No.
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Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2391 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2391 and insert the language after the enacting clause of S.F. No. 2192, the first engrossment; further, delete the title of H.F. No. 2391 and insert the title of S.F. No. 2192, the first engrossment.

And when so amended H.F. No. 2391 will be identical to S.F. No. 2192, and further recommends that H.F. No. 2391 be given its second reading and substituted for S.F. No. 2192, 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. 1897 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.
1897	1740				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1897 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1897 and insert the language after the enacting clause of S.F. No. 1740, the first engrossment; further, delete the title of H.F. No. 1897 and insert the title of S.F. No. 1740, the first engrossment.

And when so amended H.F. No. 1897 will be identical to S.F. No. 1740, and further recommends that H.F. No. 1897 be given its second reading and substituted for S.F. No. 1740, 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.

SECOND READING OF SENATE BILLS

S.F. Nos. 806 and 2038 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2139, 2213, 2050, 2391 and 1897 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Kelley introduced--

Senate Resolution No. 152: A Senate resolution recognizing July 29, 2004, to August 1, 2004, as a time for Young Onset Parkinson's Awareness.

Referred to the Committee on Rules and Administration.

Senators Bachmann and Jungbauer introduced--

Senate Resolution No. 153: A Senate resolution honoring the Crossroads Evangelical Covenant Church on the occasion of its centennial celebration.

Referred to the Committee on Rules and Administration.

Senators Bachmann and Nienow introduced--

Senate Resolution No. 154: A Senate resolution honoring Elim Lutheran on the occasion of their sesquicentennial.

Referred to the Committee on Rules and Administration.

Senator Skoe introduced--

Senate Resolution No. 155: A Senate resolution honoring Scott Merkins for his service to his country in the United States Navy.

Referred to the Committee on Rules and Administration.

Senators Hottinger, Chaudhary, Moua, Kierlin and Pogemiller introduced--

Senate Resolution No. 156: A Senate resolution expressing support for the revitalization of the Dakota and Ojibwe languages.

Referred to the Committee on Finance.

SPECIAL ORDERS

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

S.F. Nos. 1639, 2851, H.F. Nos. 1983, 995, S.F. No. 2494 and H.F. No. 2551.

SPECIAL ORDER

S.F. No. 1639: A bill for an act relating to motor vehicles; providing for removal and disposal of unauthorized vehicles on private, nonresidential property used for servicing vehicles; amending Minnesota Statutes 2002, section 168B.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 168B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 1, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Murphy

So the bill passed and its title was agreed to.

SPECIAL ORDER

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

Senator Wergin moved to amend S.F. No. 2851 as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2002, section 169A.55, is amended by adding a subdivision to read:

Subd. 3. [REINSTATEMENT OF PROVISIONAL LICENSE.] The commissioner shall not issue a provisional or regular driver's license to a person whose provisional driver's license was revoked for conviction as a juvenile of violating section 169A.20, 169A.33, or 169A.35; a provision of sections 169A.50 to 169A.53; or a crash-related moving violation, until the person, following the violation, reaches the age of 18 and satisfactorily:

(1) completes a formal course in driving instruction approved by the commissioner of public safety;

(2) completes an additional three months' experience operating a motor vehicle, as documented to the satisfaction of the commissioner;

(3) completes the written examination for a driver's license with a passing score; and

(4) complies with all other laws for reinstatement of a provisional or regular driver's license, as applicable."

Page 2, after line 35, insert:

"Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

Pursuant to Rule 41, Senator Kleis moved that he be excused from voting on all questions pertaining to S.F. No. 2851. The motion prevailed.

The question was taken on the adoption of the Wergin amendment. The motion prevailed. So the amendment was adopted.

S.F. No. 2851 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 64 and nays 2, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Foley Tomassoni

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

RECONSIDERATION

Having voted on the prevailing side, Senator Scheid moved that the vote whereby S.F. No. 1639 was passed by the Senate on April 19, 2004, be now reconsidered. The motion prevailed. So the vote was reconsidered.

S.F. No. 1639 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1983: A bill for an act relating to commerce; enacting the revisions to the general provisions of the Uniform Commercial Code and enacting a revised Article 7 of the Uniform Commercial Code recommended by the National Conference of Commissioners on Uniform State Laws; making conforming changes; amending provisions in Articles 3 and 4 of the Uniform Commercial Code relating to warranties on remotely created items; amending Minnesota Statutes 2002, sections 17.94; 84.787, subdivision 9; 84.797, subdivision 10; 84.92, subdivision 6; 86B.820, subdivision 12; 168A.01, subdivision 20; 234.27; 325L.03; 325L.16; 336.2-103; 336.2-104; 336.2-202; 336.2-310; 336.2-323; 336.2-401; 336.2-503; 336.2-505; 336.2-506; 336.2-509; 336.2-605; 336.2-705; 336.2A-103; 336.2A-501; 336.2A-514; 336.2A-518; 336.2A-519; 336.2A-526; 336.2A-527; 336.2A-528; 336.4-210; 336.4A-105; 336.4A-106; 336.4A-204; 336.5-103; 336.8-102; 336.8-103; 336.9-102; 336.9-203; 336.9-207; 336.9-208; 336.9-301; 336.9-310; 336.9-312; 336.9-313; 336.9-314; 336.9-317; 336.9-338; 336.9-601; 513.33, subdivision 1; 514.963, subdivision 9; 514.965, subdivision 10; 514.973; Minnesota Statutes 2003 Supplement, sections 336.3-103; 336.3-416; 336.3-417; 336.4-104; 336.4-207; 336.4-208; proposing coding for new law in Minnesota Statutes, chapter 336; repealing Minnesota Statutes 2002, sections 336.1-101; 336.1-102; 336.1-103; 336.1-104; 336.1-105; 336.1-106; 336.1-107; 336.1-108; 336.1-109; 336.1-110; 336.1-201; 336.1-202; 336.1-203; 336.1-204; 336.1-205; 336.1-206; 336.1-207; 336.1-208; 336.1-209; 336.2-208; 336.2A-207; 336.7-101; 336.7-102; 336.7-103; 336.7-104; 336.7-105; 336.7-201; 336.7-202; 336.7-203; 336.7-204; 336.7-205; 336.7-206; 336.7-207; 336.7-208; 336.7-209; 336.7-210; 336.7-301; 336.7-302; 336.7-303; 336.7-304; 336.7-305; 336.7-306; 336.7-307; 336.7-308; 336.7-309; 336.7-401; 336.7-402; 336.7-403; 336.7-404; 336.7-501; 336.7-502; 336.7-503; 336.7-504; 336.7-505; 336.7-506; 336.7-507; 336.7-508; 336.7-509; 336.7-601; 336.7-602; 336.7-603; 336.10-104.

Senator Betzold moved that the amendment made to H.F. No. 1983 by the Committee on Rules

and Administration in the report adopted April 1, 2004, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 1983 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 995: 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.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2494: A bill for an act relating to school safety; allowing certain colors for school safety patrol accessories and flags; amending Minnesota Statutes 2002, section 121A.34, by adding subdivisions.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 2551: A bill for an act relating to commerce; regulating safe deposit companies; modifying collateral requirements applicable to depositories of local public funds; amending Minnesota Statutes 2002, section 55.15; Minnesota Statutes 2003 Supplement, section 118A.03, subdivision 2.

Senator Sparks moved to amend H.F. No. 2551 as follows:

Page 2, after line 23, insert:

"Sec. 3. Minnesota Statutes 2002, section 604.113, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever issues any check that is dishonored is liable for the following penalties:

(a) A service charge, not to exceed \$30, may be imposed immediately on any dishonored check by the payee or holder of the check, regardless of mailing a notice of dishonor, if notice of the service charge was conspicuously displayed on the premises when the check was issued. If a law enforcement agency obtains payment of a dishonored check, a service charge, not to exceed \$30, may be imposed if the service charge is retained by the law enforcement agency for its expenses. Only one service charge may be imposed under this paragraph for each dishonored check. The displayed notice must also include a provision notifying the issuer of the check that civil penalties may be imposed for nonpayment.

(b) If the amount of the dishonored check is not paid within 30 days after the payee or holder has mailed notice of dishonor pursuant to section 609.535 and a description of the penalties contained in this subdivision, whoever issued the dishonored check is liable to the payee or holder of the check for:

(1) the amount of the check, the service charge as provided in paragraph (a), plus a civil penalty of up to \$100 or the value of the check, whichever is greater. In determining the amount of the penalty, the court shall consider the amount of the check and the reason for nonpayment. The civil penalty may not be imposed until 30 days following the mailing of the notice of dishonor. A payee or holder of the check may make a written demand for payment of the civil liability by sending a copy of this section and a description of the liability contained in this section to the issuer's last known address. Notice as provided in paragraph (a) must also include notification that additional civil penalties will be imposed for dishonored checks for nonpayment after 30 days;

(2) interest at the rate payable on judgments pursuant to section 549.09 on the face amount of the check from the date of dishonor; and

(3) reasonable attorney fees if the aggregate amount of dishonored checks issued by the issuer to all payees within a six-month period is over \$1,250.

(c) This subdivision prevails over any provision of law limiting, prohibiting, or otherwise regulating service charges authorized by this subdivision, but does not nullify charges for dishonored checks, which do not exceed the charges in paragraph (a) or terms or conditions for imposing the charges which have been agreed to by the parties in an express contract.

(d) A sight draft may not be used as a means of collecting the civil penalties provided in this section without prior consent of the issuer.

(e) The issuer of a dishonored check is not liable for the penalties described in paragraph (b) if a pretrial diversion program under section 628.69 has been established in the jurisdiction where the dishonored check was issued, the issuer was accepted into the program, and the issuer successfully completes the program."

Amend the title accordingly

Senator Marty questioned whether the amendment was germane.

The President ruled that the amendment was germane.

Senator Sparks moved that H.F. No. 2551 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Dibble moved that S.F. No. 2573, No. 44 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

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

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 676: A bill for an act relating to retirement; statewide and major local public pension plans; making various changes of an administrative nature; setting various limitations and requirements for public employees police and fire retirement plan disability benefit applications; resolving one person and small group pension problems; reducing the early retirement age for the judges retirement plan; authorizing a shorter vesting schedule for the Marine on St. Croix Volunteer Firefighters Relief Association; revising the salary maximum for the executive secretary of the Minneapolis Firefighters Relief Association; permitting single Teachers Retirement Association members to make survivor benefit designations; authorizing retirement coverage discontinuation by an elected county official; revising the manner in which actuarial services to the Legislative Commission on Pensions and Retirement are provided; continuing retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for Anoka County Achieve Program and the Government Training Services; including in privatized public employee retirement coverage employees of the Fair Oaks Lodge, Wadena, and RenVilla Nursing Home; extending the expiration date on certain prior military service credit purchases; temporarily exempting Metropolitan Airports Commission police from reemployed annuitant earnings limitation; ratifying certain Bellingham volunteer firefighter relief association

annuity purchases; including the Lake Johanna fire department employees in Public Employees Retirement Association coverage; limiting the covered salary of school district superintendents and administrators for pension purposes; expanding the health care savings plan; modifying the department of transportation pilots retirement plan; creating a statewide volunteer firefighter retirement plan study task force; authorizing shorter vesting periods for defined contribution volunteer firefighter relief associations; modifying Minneapolis Police Relief Association provisions; appropriating money; amending Minnesota Statutes 2002, sections 3A.03, subdivision 2; 69.77, subdivision 4; 352.01, subdivision 13; 352.03, subdivision 6; 352.113, subdivisions 4, 6, 8, by adding a subdivision; 352.12, subdivisions 1, 6; 352.22, subdivisions 2, 3; 352.27; 352.275, subdivision 1; 352.86, subdivision 1; 352.95, subdivisions 1, 2, 4; 352.98; 352B.01, subdivisions 3a, 11, by adding a subdivision; 352B.02, subdivision 1e; 352B.10, subdivisions 1, 2, 3, 4, 5; 352B.105; 352B.11, subdivisions 1, 2, by adding subdivisions; 352D.065, subdivision 2; 352D.075, subdivisions 2, 3, by adding a subdivision; 353.01, subdivisions 2b, 10, 12a, 12b, 16, 16a; 353.03, subdivision 3a; 353.33, subdivisions 4, 6, 6b, 7, by adding a subdivision; 353.37, subdivision 3, by adding a subdivision; 353.656, subdivision 5, by adding subdivisions; 354.05, subdivisions 2, 22, 35; 354.06, subdivision 2a; 354.07, subdivision 9; 354.091; 354.096, subdivision 1; 354.42, subdivision 7; 354.44, subdivisions 4, 5; 354.46, subdivisions 2, 2b, 5, by adding a subdivision; 354.48, subdivisions 2, 4, 6, 6a, 10; 354.51, subdivision 5; 354.52, subdivisions 4a, 6, by adding a subdivision; 354.53; 354.533, subdivision 1; 354.66, subdivision 2; 354A.011, subdivision 24; 354A.021, subdivision 7; 354A.093; 354A.094, subdivision 3; 354A.097, subdivision 1; 354A.36, subdivisions 4, 6; 354B.20, subdivisions 4, 6; 354B.23, subdivision 1; 354B.32; 354C.11, subdivision 2; 356.215, subdivisions 2, 18; 356.216; 356.302, subdivision 3; 356.441; 356.611, subdivision 2, by adding subdivisions; 422A.06, subdivision 2; 422A.18, subdivisions 1, 4; 423B.01, subdivision 12; 423B.09, subdivisions 1, 4, by adding a subdivision; 423B.10, subdivision 1; 423B.15, subdivision 3; 423C.05, subdivisions 4, 5, 6, by adding a subdivision; 424A.02, subdivisions 2, 7; 490.121, subdivision 10, by adding a subdivision; 490.124, subdivision 12; Minnesota Statutes 2003 Supplement, sections 353.01, subdivision 6; 353F.02, subdivision 4; 423C.03, subdivision 3; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 352F; 353F; 356; 423B; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 352D.02, subdivision 5; 353.33, subdivision 5b; 354A.107; 356.217; 490.11.

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

Page 2, after line 46, insert:

"Section 1. Minnesota Statutes 2002, section 352.91, subdivision 3g, is amended to read:

Subd. 3g. [ADDITIONAL CORRECTIONS DEPARTMENT PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at the designated Minnesota correctional facility specified in paragraph (b), ~~provided that if~~ at least 75 percent of the employee's working time is spent in direct contact with inmates and the fact of this direct contact is certified to the executive director by the commissioner of corrections.

(b) The qualifying employment positions and the designated correctional facilities are:

(1) corrections discipline unit supervisor, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Oak Park Heights, the Minnesota Correctional Facility-Rush City, and the Minnesota Correctional Facility-St. Cloud;

(2) dental assistant registered, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Moose Lake, the Minnesota Correctional Facility-Oak Park Heights, and the Minnesota Correctional Facility-Red Wing;

(3) dental hygienist, at the Minnesota Correctional Facility-Shakopee and the Minnesota Correctional Facility-Rush City;

(4) psychologist 2, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional

Facility-Lino Lakes, the Minnesota Correctional Facility-Moose Lake, the Minnesota Correctional Facility-Oak Park Heights, the Minnesota Correctional Facility-Red Wing, the Minnesota Correctional Facility-Rush City, the Minnesota Correctional Facility-St. Cloud, the Minnesota Correctional Facility-Shakopee, and the Minnesota Correctional Facility-Stillwater; and or

(5) sentencing to service crew leader involved with the inmate community work crew program, at the Minnesota Correctional Facility-Faribault and the Minnesota Correctional Facility-Lino Lakes."

Page 12, line 4, delete "5 and 8" and insert "6 and 9"

Page 12, line 5, delete "6" and insert "7"

Page 12, line 8, delete "7" and insert "8"

Page 17, after line 30, insert:

"Sec. 6. Minnesota Statutes 2002, section 356.611, subdivision 1, is amended to read:

Subdivision 1. [STATE SALARY LIMITATIONS.] (a) Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements, or retirement plan contracts to the contrary, the covered salary for pension purposes for a plan participant of a covered retirement fund enumerated in section 356.30, subdivision 3, may not exceed 95 percent of the salary established for the governor under section 15A.082 at the time the person received the salary.

(b) This section does not apply to a salary paid:

(1) to the governor;

(2) to another constitutional officer;

(3) to a judge;

(4) to an elected county attorney in the counties of Anoka, Dakota, Ramsey, and St. Louis;

(5) to an employee of a political subdivision in a position that is excluded from the limit as specified under section 43A.17, subdivision 9; ~~or~~

~~(3) (6) to a state employee in a position for which the commissioner of employee relations has approved a salary rate that exceeds 95 percent of the governor's salary as defined under section 43A.02, subdivision 21;~~

(7) to an employee of Gillette Hospital, the Minnesota Crop Improvement Council, or the Minnesota Historical Society;

(8) to the executive director and chief executive officer, the director of operations, and the director of corporate development and agency relations of the Southern Minnesota Municipal Power Agency;

(9) to the executive director and the insurance trust administrator of the League of Minnesota Cities; or

(10) to the manager of Utilities Plus.

(c) The limited covered salary determined under this section must be used in determining employee and employer contributions and in determining retirement annuities and other benefits under the respective covered retirement fund and under this chapter."

Page 18, line 25, delete "6, and 7" and insert "7, and 8"

Page 18, after line 28, insert:

"(c) Section 6 applies retroactively to April 28, 1994. Retirement annuities that were calculated based on covered salary amounts that were in excess of the limit in effect after April 28, 1994, but conform with section 6, are ratified."

Page 47, after line 15, insert:

"Sec. 6. Minnesota Statutes 2002, section 354.44, subdivision 6, is amended to read:

Subd. 6. [COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY.] ~~(4)~~ (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in ~~elause (2) or (4) paragraph (b) or (d)~~ on the basis of each member's average salary for the period of the member's formula service credit.

For all years of formula service credit, "average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511, for the highest five successive years of formula service credit provided, however, that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of formula service credit if this service credit is less than five years.

~~(2)~~ (b) This ~~elause paragraph~~, in conjunction with ~~elause (3) paragraph (c)~~, applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless ~~elause (4) paragraph (d)~~, in conjunction with ~~elause (5) paragraph (e)~~, produces a higher annuity amount, in which case ~~elause (4) paragraph (d)~~ applies. The average salary as defined in ~~elause (4) paragraph (a)~~, multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service	the percent	the percent
during first ten	specified in	specified in
	section 356.315,	section 356.315,
	subdivision 1,	subdivision 3,
	per year	per year
Each year of service	the percent	the percent
thereafter	specified in	specified in
	section 356.315,	section 356.315,
	subdivision 2,	subdivision 4,
	per year	per year

~~(3)~~ (c)(i) This ~~elause paragraph~~ applies only to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under ~~elause (2) paragraph (b)~~, in conjunction with this ~~elause paragraph~~ than when calculated under ~~elause (4) paragraph (d)~~, in conjunction with ~~elause (5) paragraph (e)~~.

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in ~~elause (2) paragraph (b)~~ reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled,

upon application, to a retirement annuity in an amount equal to the normal annuity provided in ~~clause (2) paragraph (b)~~, without any reduction by reason of early retirement.

(4) ~~(d)~~ This ~~clause paragraph~~ applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this ~~clause paragraph~~ and in conjunction with ~~clause (5) paragraph (e)~~, is higher than it is when calculated under ~~clause (2) paragraph (b)~~, in conjunction with ~~clause (3) paragraph (c)~~. The average salary, as defined in ~~clause (1) paragraph (a)~~ multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member and by the percent specified in section 356.315, subdivision 2, for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

~~(5) (e)~~ This ~~clause paragraph~~ applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under ~~clause (4) paragraph (d)~~ in conjunction with this ~~clause paragraph~~ than when calculated under ~~clause (2) paragraph (b)~~, in conjunction with ~~clause (3) paragraph (c)~~. An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in ~~clause (4) paragraph (d)~~ reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

~~(f)~~ No retirement annuity is payable to a former superintendent, assistant superintendent, or principal unless and until the salary figures used in computing the highest five successive years average salary under paragraph (a) have been audited by the Teachers Retirement Association and determined by the executive director to comply with the requirements and limitations of section 354.05, subdivisions 35 and 35a."

Page 47, after line 29, insert:

"Sec. 9. [TRA; REPORT ON CERTAIN SALARY AUDITS.]

(a) The executive director shall report to the chair of the Legislative Commission on Pensions and Retirement, the chair of the Committee on Governmental Operations and Veterans Affairs Policy of the House of Representatives, and the chair of the State and Local Government Operations Committee of the Senate on the number of superintendents, assistant superintendents, and principals who retired during the most recent calendar year, the number of superintendents, assistant superintendents, and principals where the preretirement salary audit under Minnesota Statutes, section 354.44, subdivision 6, paragraph (f), disclosed an impermissible salary inclusion amount, the school district or districts in which impermissible salary inclusions occurred, the average amount of the impermissible salary inclusions where there were impermissible salary inclusions, and the range of impermissible salary inclusions.

(b) When a report is due, the report must be filed on or before February 15.

(c) Reports under this section must be made for calendar years 2004 and 2005. A report under this section also must be filed for calendar years 2006 and 2007 if the report for calendar 2005 indicates that there were impermissible salary inclusions that occurred during the calendar year."

Page 47, line 33, delete "and 6" and insert "6, and 7"

Page 47, line 35, delete "Sections 7" and insert "Section 8"

Page 95, line 23, delete "and"

Page 95, line 24, after "(6)" insert "the St. Peter Community Healthcare Center; and (7)"

Page 97, line 30, after "(d)" insert "Section 1, relating to the St. Peter Community Healthcare Center, is effective upon the latter of:

(1) the day after the governing body of the city of St. Peter and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month next following certification to the governing body of the city of St. Peter by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized St. Peter Community Healthcare Center employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(e) The cost of the actuarial calculations must be borne by the city of St. Peter or the purchaser of the St. Peter Community Healthcare Center.

(f)"

Page 97, line 33, delete "(e)" and insert "(g)"

Page 97, line 36, delete "(f)" and insert "(h)"

Page 100, line 1, delete "benefit" and insert "contribution"

Page 109, line 18, after "employment" insert "other than elected or appointed Minneapolis Park Board employment"

Page 109, line 21, before "If" insert "In computing the annuity, the Public Employees Retirement Association must exclude salary due to the elected or appointed Minneapolis Park Board service."

Page 109, after line 24, insert:

"Subd. 3. [TREATMENT OF MINNEAPOLIS PARK BOARD SERVICE CONTRIBUTIONS TO THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.] (a) All employee contributions to the Public Employees Retirement Association general plan by an eligible individual in subdivision 1, paragraph (b), due to the elected or appointed Minneapolis park board service, and all corresponding employer contributions, must be determined.

(b) An eligible individual under subdivision 1, paragraph (b), must elect, within one year of the effective date of this section or upon termination of elective or appointed park board service, whichever is earlier, a refund under Minnesota Statutes, section 353.34, subdivision 2, of employee contributions determined under paragraph (a), or coverage by the public employees defined contribution plan under Minnesota Statutes, chapter 353D, as further specified in paragraph (c). This election shall be made in writing on a form to be provided by the executive director of the Public Employees Retirement Association.

(c) If public employee defined contribution plan coverage is elected under paragraph (b), contributions to that plan commence as of the first day of the pay period following this election, and accumulated employee and employer contributions determined under paragraph (a) must be transferred with six percent annual interest to an account for the eligible individual in the public employees defined contribution plan.

(d) If no election is made by an eligible individual by the required date in paragraph (b), the individual is assumed to have elected the refund indicated in paragraph (b).

(e) Upon an election under paragraph (b), or a mandatory refund under paragraph (d), all rights in the Public Employees Retirement Association general plan due to elected or appointed Minneapolis park board service are forfeited and may not be reestablished.

Sec. 4. [MSRS-UNCLASSIFIED PROGRAM; ELECTION BY SURVIVOR.]

(a) Notwithstanding any provision of Minnesota Statutes, chapter 352 or 352D, to the contrary, a person described in paragraph (b) may make the posthumous coverage election specified in paragraph (c) and be eligible for the survivor benefit specified in paragraph (d).

(b) An eligible person is the personal representative of the estate of a person who:

(1) was born on March 26, 1942;

(2) was employed by the House of Representatives for several years prior to being laid off;

(3) was covered by the unclassified state employees retirement program of the Minnesota State Retirement System as a House employee until electing alternative coverage by the general employee retirement plan at or prior to the termination of House employment;

(4) was employed by the Senate prior to death, but did not make the election to transfer prior service contributions to the unclassified state employees retirement program under Minnesota Statutes, section 352D.12; and

(5) died on February 19, 2004.

(c) The posthumous coverage election is the transfer election under Minnesota Statutes, section 352D.12, and the personal representative of the estate of a person described in paragraph (b) may make the election as if the representative was a participant in the unclassified program.

(d) If the posthumous coverage election is made under paragraph (d), the estate is entitled to a death benefit under Minnesota Statutes, section 352D.075.

(e) The posthumous coverage election under this section expires on July 1, 2005.

Sec. 5. [MSRS DEFERRED ANNUITANT; ALLOWING USE OF NON-COVERED EMPLOYMENT FOR RULE OF 90 ELIGIBILITY.]

Subdivision 1. [AUTHORITY.] An eligible individual under subdivision 2 is authorized to have the benefit treatment specified in subdivision 3, providing the eligible individual complies with all requirements under subdivision 4.

Subd. 2. [ELIGIBILITY.] An eligible individual is an individual who:

(1) is a Minnesota State Retirement System general plan deferred member;

(2) was born on June 27, 1946;

(3) was the director of the Minnesota Indian scholarship program from 1974 to 2002;

(4) due to an office closing, was terminated from Minnesota State Retirement System general plan covered employment in late 2002; and

(5) was hired as a counselor at Bug-O-Na-Ge-Shig school in August 2003.

Subd. 3. [PROCEDURE.] An eligible individual under subdivision 2 is authorized to have employment at the Bug-O-Na-Ge-Shig school used for purposes of determining eligibility for early retirement benefits provided under Minnesota Statutes, section 352.116, subdivision 1, paragraphs (a) and (b), notwithstanding any provisions of Minnesota Statutes, chapter 352, to the contrary. The employment under this subdivision must not be used as service credit for purposes of computing the specified benefit.

Subd. 4. [REQUIREMENTS.] (a) An eligible individual under subdivision 2 and that individual's employer shall provide the Minnesota State Retirement System executive director with any information or reports that the executive director may request to determine eligibility under this section and service provided to the employer.

(b) An eligible individual is not entitled to a benefit determined under this section until the

eligible individual terminates employment with the employer who owns, leases, or operates the school specified in subdivision 2.

(c) A terminated eligible individual meeting requirements of this subdivision, or an individual authorized to act on behalf of that individual, may apply for an annuity following application procedures under Minnesota Statutes, section 352.115, subdivision 7.

(d) Authority under this section is voided if an eligible individual takes or has taken a refund under Minnesota Statutes, section 352.22.

(e) The reemployed annuitant earnings limitations of Minnesota Statutes, section 352.115, subdivision 10, apply to any service by an eligible individual following reemployment with the employer who owns, leases, or operates the school specified in subdivision 2.

(f) Authority under this section is voided if the eligible individual has defined benefit pension plan coverage for the school employment specified in subdivision 2, or if the eligible individual has received service credit, or is eligible to receive service credit, in a defined benefit pension plan for that school employment."

Page 109, line 26, delete "3" and insert "5"

Page 127, after line 26, insert:

"Sec. 10. [APPROPRIATION REDUCTION.]

The general fund appropriation in Laws 2003, First Special Session chapter 1, article 1, section 2, subdivision 4, for the fiscal year ending June 30, 2005, is reduced by \$152,000."

Page 127, line 31, delete "10" and insert "11"

Page 138, line 12, delete "; NONSEVERABILITY"

Page 138, line 13, delete "are not severable and"

Page 138, after line 17, insert:

"ARTICLE 20

ADDITIONAL OPTIONS FOR CERTAIN TEACHERS

Section 1. [354.551] [ADDITIONAL BENEFIT FOR TEACHERS PREVIOUSLY COVERED BY MONEY PURCHASE PROGRAM.]

Subdivision 1. [ADDITIONAL BENEFIT ENTITLEMENT.] Eligible retired teachers as defined in subdivision 2 are entitled to receive the additional benefit amount determined under subdivision 3 unless the applicable person files a written notification with the executive director of the Teachers Retirement Association that the additional benefit not be paid.

Subd. 2. [ELIGIBILITY.] An eligible person for purposes of this section is a person who:

(1) was a teacher as defined in section 354.05, subdivision 2;

(2) rendered teaching service as defined in section 354.05, subdivision 3, either during the 1968-1969 school year, but was not covered by the improved money purchase program savings clause in section 354.55, subdivision 17, or before the 1968-1969 school year, did not take a refund of member contributions upon the termination of teacher service, and was eligible to make an election under Minnesota Statutes 1971, section 354.55, subdivision 8.

Subd. 3. [DETERMINATION OF ADDITIONAL BENEFIT AMOUNT.] (a) By July 1, 2004, the executive director of the Teachers Retirement Association shall determine which active or retired teachers are eligible to receive an additional benefit amount under this section and the amount of each person's additional benefit amount.

The increase amount is 45 percent of the difference, if a positive number, obtained by subtracting the single life annuity amount initially payable upon retirement under section 354.44, subdivision 6, from a comparable single life annuity amount computed as of the same date under section 354.44, subdivision 2.

(b) The additional retirement annuity is payable beginning July 1, 2004, for persons who were receiving a retirement annuity on June 1, 2004, or with the initial retirement annuity payment for persons who were active, deferred, or inactive members on June 1, 2004. The additional retirement annuity must be included in the base for any postretirement adjustment payable under section 11A.18. The applicable required reserves amount must be transferred on July 1, 2004, for persons who were receiving a retirement annuity on June 1, 2004, or on the date of retirement for persons who were active, deferred, or inactive members on June 1, 2004.

Subd. 4. [DURATION OF ADDITIONAL BENEFIT.] The additional benefit amount is payable for life or for the duration of the selected optional annuity form, whichever applies.

Subd. 5. [NO PAYMENT TO ESTATE; NO RETROACTIVITY.] (a) Nothing in this section authorizes the payment of an additional benefit amount under this section to an estate or to a survivor or beneficiary other than under an optional annuity form.

(b) Nothing in this section authorizes the payment of an additional benefit amount for any period before July 1, 2004.

(c) Nothing in this section authorizes the payment of an additional benefit amount to a person who was or is entitled to have their retirement annuity calculated under section 354.44, subdivision 2.

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 25, before the semicolon, insert ", and the St. Peter Community Healthcare Center"

Page 1, line 35, after the semicolon, insert "excluding certain employees from limits on covered salary for pension purposes; requiring audits and reports on preretirement salaries of certain school district administrators;"

Page 1, line 42, after the first semicolon, insert "providing additional benefits to certain teachers employed during or before the 1968-1969 school year;"

Page 2, line 2, after the second "1;" insert "352.91, subdivision 3g;"

Page 2, line 16, after the first "5" insert ", 6"

Page 2, line 26, delete the second "subdivision" and insert "subdivisions 1,"

Page 2, line 40, after "353F;" insert "354;"

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

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

S.F. No. 1803: A bill for an act relating to limited partnerships; enacting and modifying the Uniform Limited Partnership Act of 2001; providing transitional provisions; making conforming changes; amending Minnesota Statutes 2002, sections 5.25, subdivision 1; 302A.115, subdivision 1; 308A.121, subdivision 1; 317A.115, subdivision 2; 322B.12, subdivision 1; 323A.1-01; proposing coding for new law as Minnesota Statutes, chapter 321; repealing Minnesota Statutes 2002, sections 322A.01; 322A.02; 322A.03; 322A.04; 322A.05; 322A.06; 322A.07; 322A.11;

322A.12; 322A.13; 322A.14; 322A.15; 322A.16; 322A.17; 322A.18; 322A.19; 322A.24;
322A.25; 322A.26; 322A.27; 322A.28; 322A.31; 322A.32; 322A.33; 322A.34; 322A.35;
322A.38; 322A.39; 322A.40; 322A.41; 322A.45; 322A.46; 322A.47; 322A.48; 322A.49;
322A.50; 322A.51; 322A.52; 322A.55; 322A.56; 322A.57; 322A.58; 322A.59; 322A.63;
322A.64; 322A.65; 322A.66; 322A.69; 322A.70; 322A.71; 322A.72; 322A.73; 322A.74;
322A.75; 322A.76; 322A.761; 322A.79; 322A.80; 322A.81; 322A.82; 322A.85; 322A.86;
322A.87; 322A.88.

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

Page 22, line 35, delete "\$..." and insert "\$100"

Page 22, line 36, delete everything after "filing" and insert "an amended certificate of limited partnership, \$50,"

Page 23, line 1, delete everything after "record"

Page 23, line 2, delete everything before "required"

Page 23, line 3, delete "\$..." and insert "\$35"

Page 23, line 6, delete "\$..." and insert "\$85"

Page 23, line 7, delete "\$..." and insert "\$25"

Page 23, line 8, delete everything after "record"

Page 23, delete line 9

Page 23, line 10, delete everything before "required"

Page 23, line 12, delete "\$...." and insert "\$50."

Page 89, after line 3, insert:

"ARTICLE 14

OTHER BUSINESS ORGANIZATIONS

Section 1. Minnesota Statutes 2002, section 302A.011, subdivision 21, is amended to read:

Subd. 21. [PARENT.] "Parent" of a specified corporation means a corporation or a foreign corporation that directly, or indirectly through related organizations, owns more than 50 percent of the voting power of the shares entitled to vote for directors of the specified corporation.

Sec. 2. Minnesota Statutes 2002, section 302A.011, subdivision 31, is amended to read:

Subd. 31. [SUBSIDIARY.] "Subsidiary" of a specified corporation means a corporation or a foreign corporation having more than 50 percent of the voting power of its shares entitled to vote for directors owned directly, or indirectly through related organizations, by the specified corporation.

Sec. 3. Minnesota Statutes 2002, section 302A.011, subdivision 49, is amended to read:

Subd. 49. [INTERESTED SHAREHOLDER.] (a) "Interested shareholder," when used in reference to any issuing public corporation, means any person that is (1) the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the outstanding shares entitled to vote of the issuing public corporation or (2) an affiliate or associate of the issuing public corporation and that, at any time within the four-year period immediately before the date in question, was the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the then outstanding shares entitled to vote of the issuing public corporation. ~~Notwithstanding anything stated in this subdivision,~~

(b) If a person who has not been a beneficial owner of ten percent or more of the voting power of the outstanding shares entitled to vote of the issuing public corporation immediately prior to a repurchase of shares by, or recapitalization of, the issuing public corporation or similar action shall become a beneficial owner of ten percent or more of the voting power solely as a result of the share repurchase, recapitalization, or similar action, the person shall not be deemed to be the beneficial owner of ten percent or more of the voting power for purposes of paragraph (a), clause (1) or (2), unless:

(i) the repurchase, recapitalization, conversion, or similar action was proposed by or on behalf of, or pursuant to any agreement, arrangement, relationship, understanding, or otherwise (whether or not in writing) with, the person or any affiliate or associate of the person; or

(ii) the person thereafter acquires beneficial ownership, directly or indirectly, of outstanding shares entitled to vote of the issuing public corporation and, immediately after the acquisition, is the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the outstanding shares entitled to vote of the issuing public corporation.

(b) (c) Interested shareholder does not include:

(1) the issuing public corporation or any of its subsidiaries; or

(2) a savings, employee stock ownership, or other employee benefit plan of the issuing public corporation or its subsidiary, or a fiduciary of the plan when acting in a fiduciary capacity pursuant to the plan; or

(3) a licensed broker/dealer or licensed underwriter who:

(i) purchases shares of an issuing public corporation solely for purposes of resale to the public; and

(ii) is not acting in concert with an interested shareholder.

(d) For purposes of this subdivision, shares beneficially owned by a plan described in paragraph (c), clause (2), or by a fiduciary of a plan described in paragraph (c), clause (2), pursuant to the plan, are not deemed to be beneficially owned by a person who is a fiduciary of the plan.

Sec. 4. Minnesota Statutes 2002, section 302A.011, subdivision 51, is amended to read:

Subd. 51. [SHARE ACQUISITION DATE.] "Share acquisition date," with respect to any person and any issuing public corporation, means the date that the person first becomes an interested shareholder of the issuing public corporation; ~~provided, however, that in the event,~~ Notwithstanding the foregoing provisions of this subdivision:

(a) if a person becomes, on one or more dates, an interested shareholder of the issuing public corporation, but thereafter ceases to be an interested shareholder of the issuing public corporation, and subsequently again becomes an interested shareholder, "share acquisition date," with respect to that person means the date on which the person most recently became an interested shareholder of the issuing public corporation; and

(b) if, on or after August 1, 2004, a person is the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the outstanding shares entitled to vote of the issuing public corporation at the time the issuing public corporation becomes a publicly held corporation, "share acquisition date," with respect to that person means the date on which the person first became the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the outstanding shares entitled to vote of the corporation.

Sec. 5. Minnesota Statutes 2002, section 302A.011, is amended by adding a subdivision to read:

Subd. 63. [CONVERTED ORGANIZATION.] "Converted organization" means the

corporation or domestic limited liability company resulting from a conversion under sections 302A.681 to 302A.691.

Sec. 6. Minnesota Statutes 2002, section 302A.011, is amended by adding a subdivision to read:

Subd. 64. [CONVERTING ORGANIZATION.] "Converting organization" means the corporation or domestic limited liability company that effects a conversion under sections 302A.681 to 302A.691.

Sec. 7. Minnesota Statutes 2002, section 302A.111, subdivision 2, is amended to read:

Subd. 2. [STATUTORY PROVISIONS THAT MAY BE MODIFIED ONLY IN ARTICLES.] The following provisions govern a corporation unless modified in the articles:

- (a) a corporation has general business purposes (section 302A.101);
- (b) a corporation has perpetual existence and certain powers (section 302A.161);
- (c) the power to adopt, amend, or repeal the bylaws is vested in the board (section 302A.181);
- (d) a corporation must allow cumulative voting for directors (section 302A.215, subdivision 2);
- (e) the affirmative vote of a majority of directors present is required for an action of the board (section 302A.237);
- (f) a written action by the board taken without a meeting must be signed by all directors (section 302A.239);
- (g) the board may authorize the issuance of securities and rights to purchase securities (section 302A.401, subdivision 1);
- (h) all shares are common shares entitled to vote and are of one class and one series (section 302A.401, subdivision 2, clauses (a) and (b));
- (i) all shares have equal rights and preferences in all matters not otherwise provided for by the board (section 302A.401, subdivision 2, clause (b));
- (j) the par value of shares is fixed at one cent per share for certain purposes and may be fixed by the board for certain other purposes (section 302A.401, subdivision 2, clause (c));
- (k) the board or the shareholders may issue shares for any consideration or for no consideration to effectuate share dividends, divisions, or combinations, and determine the value of nonmonetary consideration (section 302A.405, subdivision 1);
- (l) shares of a class or series must not be issued to holders of shares of another class or series to effectuate share dividends, divisions, or combinations, unless authorized by a majority of the voting power of the shares of the same class or series as the shares to be issued (section 302A.405, subdivision 1);
- (m) a corporation may issue rights to purchase securities whose terms, provisions, and conditions are fixed by the board (section 302A.409);
- (n) a shareholder has certain preemptive rights, unless otherwise provided by the board (section 302A.413);
- (o) the affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote at a duly held meeting is required for an action of the shareholders, except where this chapter requires the affirmative vote of a plurality of the votes cast (section 302A.215, subdivision 1) or a majority of the voting power of all shares entitled to vote (section 302A.437, subdivision 1);

(p) shares of a corporation acquired by the corporation may be reissued (section 302A.553, subdivision 1);

(q) each share has one vote unless otherwise provided in the terms of the share (section 302A.445, subdivision 3);

(r) a corporation may issue shares for a consideration less than the par value, if any, of the shares (section 302A.405, subdivision 2); ~~and~~

(s) the board may effect share dividends, divisions, and combinations under certain circumstances without shareholder approval (section 302A.402); and

(t) a written action of shareholders must be signed by all shareholders (section 302A.441).

Sec. 8. Minnesota Statutes 2002, section 302A.137, is amended to read:

302A.137 [CLASS OR SERIES VOTING ON AMENDMENTS.]

The holders of the outstanding shares of a class or series are entitled to vote as a class or series upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles, if the amendment would:

~~(a) Increase or decrease the aggregate number of authorized shares of the class or series;~~

~~(b) effect an exchange, reclassification, or cancellation of all or part of the shares of the class or series, or effect a combination of outstanding shares of a class or series into a lesser number of shares of the class or series where each other class and series is not subject to a similar combination;~~

~~(c) (b) effect an exchange, or create a right of exchange, of all or any part of the shares of another class or series for the shares of the class or series;~~

~~(d) (c) change the rights or preferences of the shares of the class or series;~~

~~(e) Change the shares of the class or series, whether with or without par value, into the same or a different number of shares, either with or without par value, of another class or series;~~

~~(f) (d) create a new class or series of shares having rights and preferences prior and superior to the shares of that class or series, or increase the rights and preferences or the number of authorized shares, of a class or series having rights and preferences prior or superior to the shares of that class or series;~~

~~(g) (e) divide the shares of the class into series and determine the designation of each series and the variations in the relative rights and preferences between the shares of each series, or authorize the board to do so;~~

~~(h) (f) limit or deny any existing preemptive rights of the shares of the class or series; or~~

~~(i) (g) cancel or otherwise affect distributions on the shares of the class or series that have accrued but have not been declared.~~

Sec. 9. Minnesota Statutes 2002, section 302A.215, is amended to read:

302A.215 [CUMULATIVE VOTING FOR DIRECTORS; CUMULATIVE VOTING.]

Subdivision 1. [REQUIRED VOTE.] Unless otherwise provided in the articles, directors are elected by a plurality of the voting power of the shares present and entitled to vote on the election of directors at a meeting at which a quorum is present.

Subd. 2. [CUMULATIVE VOTING RIGHTS.] Unless the articles provide that there shall be no cumulative voting, and except as provided in section 302A.223, subdivision 5, each shareholder entitled to vote for directors has the right to cumulate those votes in the election of

directors by giving written notice of intent to cumulate those votes to any officer of the corporation before the meeting, or to the presiding officer at the meeting at which the election is to occur at any time before the election of directors at the meeting, in which case:

(a) The presiding officer at the meeting shall announce, before the election of directors, that shareholders shall cumulate their votes; and

(b) Each shareholder shall cumulate those votes either by casting for one candidate the number of votes equal to the number of directors to be elected multiplied by the number of votes represented by the shares, or by distributing all of those votes on the same principle among any number of candidates.

Subd. 2- 3. [MODIFICATIONS OF CUMULATIVE VOTING.] No amendment to the articles or bylaws which that has the effect of denying, limiting, or modifying the right to cumulative voting for directors provided in this section shall be adopted if the votes of a proportion of the voting power sufficient to elect a director at an election of the entire board under cumulative voting are cast against the amendment.

Sec. 10. Minnesota Statutes 2002, section 302A.231, subdivision 4, is amended to read:

Subd. 4. [CALLING MEETINGS; NOTICE.] (a) Unless the articles or bylaws provide for a different time period, a director may call a board meeting by giving at least ten days' notice or, in the case of organizational meetings pursuant to section 302A.171, subdivision 2, at least three days' notice, to all directors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless the articles or bylaws require it.

(b) Any notice to a director given under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the director to whom the notice is given is effective when given. The notice is deemed given if by:

(1) facsimile communication, when directed to a telephone number at which the director has consented to receive notice;

(2) electronic mail, when directed to an electronic mail address at which the director has consented to receive notice; and

(3) any other form of electronic communication by which the director has consented to receive notice, when directed to the director.

(c) Consent by a director to notice given by electronic communication may be given in writing or by authenticated electronic communication. Any consent so given may be relied upon until revoked by the director, provided that no revocation affects the validity of any notice given before receipt of revocation of the consent.

Sec. 11. Minnesota Statutes 2002, section 302A.231, subdivision 6, is amended to read:

Subd. 6. [WAIVER OF NOTICE.] A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, by authenticated electronic communication, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, except where the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting.

Sec. 12. Minnesota Statutes 2002, section 302A.401, subdivision 3, is amended to read:

Subd. 3. [PROCEDURE FOR FIXING TERMS.] (a) Subject to any restrictions in the articles, the power granted in subdivision 2 may be exercised by a resolution or resolutions approved by the affirmative vote of the directors required by section 302A.237 establishing a class or series, setting forth the designation of the class or series, and fixing the relative rights and preferences of the class or series. Any of the rights and preferences of a class or series established in the articles or by resolution of the directors:

(1) may be made dependent upon facts ascertainable outside the articles, or outside the resolution or resolutions establishing the class or series, provided that the manner in which the facts operate upon the rights and preferences of the class or series is clearly and expressly set forth in the articles or in the resolution or resolutions establishing the class or series; and

(2) may incorporate by reference some or all of the terms of any agreements, contracts, or other arrangements entered into by the issuing corporation in connection with the establishment of the class or series if the corporation retains at its principal executive office a copy of the agreements, contracts, or other arrangements or the portions incorporated by reference.

(b) A statement setting forth the name of the corporation and the text of the resolution and certifying the adoption of the resolution and the date of adoption shall be filed with the secretary of state before the issuance of any shares for which the resolution creates rights or preferences not set forth in the articles; provided, however, where the shareholders have received notice of the creation of shares with rights or preferences not set forth in the articles before the issuance of the shares, the statement may be filed any time within one year after the issuance of the shares. The resolution is effective when the statement has been filed with the secretary of state; or, if it is not required to be filed with the secretary of state before the issuance of shares, on the date of its adoption by the directors.

(c) Filing a statement filed with the secretary of state in accordance with paragraph (b) is not considered an amendment of the articles for purposes of sections 302A.135, 302A.137, and 302A.471. Filing an amendment of such a statement with the secretary of state is considered an amendment of the articles for purposes of sections 302A.135, 302A.137, and 302A.471.

Sec. 13. Minnesota Statutes 2002, section 302A.402, subdivision 2, is amended to read:

Subd. 2. [WHEN SHAREHOLDER APPROVAL REQUIRED; FILING OF ARTICLES OF AMENDMENT.] (a) Articles of amendment must be adopted by the board and the shareholders under sections section 302A.135 and, if required, section 302A.137 to effect a division or combination if, as a result of the proposed division or combination:

(1) the rights or preferences of the holders of outstanding shares of any class or series will be adversely affected; or

(2) the percentage of authorized shares of any class or series remaining unissued after the division or combination will exceed the percentage of authorized shares of that class or series that were unissued before the division or combination.

(b) If a division or combination is effected under this subdivision, articles of amendment must be prepared that contain the information required by section 302A.139.

Sec. 14. Minnesota Statutes 2002, section 302A.437, subdivision 1, is amended to read:

Subdivision 1. [MAJORITY REQUIRED.] Except for the election of directors, which is governed by section 302A.215, the shareholders shall take action by the affirmative vote of the holders of the greater of (1) a majority of the voting power of the shares present and entitled to vote on that item of business, or (2) a majority of the voting power of the minimum number of the shares entitled to vote that would constitute a quorum for the transaction of business at the meeting, except where this chapter or the articles require a larger proportion or number. If the articles require a larger proportion or number than is required by this chapter for a particular action, the articles control.

Sec. 15. Minnesota Statutes 2002, section 302A.441, is amended to read:

302A.441 [ACTION WITHOUT A MEETING.]

Subdivision 1. [METHOD.] An action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting by written action signed, or consented to by authenticated electronic communication, by all of the shareholders entitled to vote on that action. The articles of a corporation that is not a publicly held corporation may provide that any action

may be taken by written action signed, or consented to by authenticated electronic communication, by shareholders having voting power equal to the voting power that would be required to take the same action at a meeting of the shareholders at which all shareholders were present. After the adoption of the initial articles, an amendment to the articles to permit written action to be taken by less than all shareholders requires the approval of all of the shareholders entitled to vote on the amendment.

Subd. 2. [EFFECTIVE TIME.] The written action is effective when it has been signed, or consented to by authenticated electronic communication, by ~~all of those~~ the required shareholders, unless a different effective time is provided in the written action.

Subd. 3. [NOTICE AND LIABILITY.] When written action is permitted to be taken by less than all shareholders, all shareholders must be notified of its text and effective time no later than five days after the effective time of the action. Failure to provide the notice does not invalidate the written action. A shareholder who does not sign or consent to the written action has no liability for any action authorized by the written action.

Sec. 16. Minnesota Statutes 2002, section 302A.471, subdivision 1, is amended to read:

Subdivision 1. [ACTIONS CREATING RIGHTS.] A shareholder of a corporation may dissent from, and obtain payment for the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(a) unless otherwise provided in the articles, an amendment of the articles that materially and adversely affects the rights or preferences of the shares of the dissenting shareholder in that it:

(1) alters or abolishes a preferential right of the shares;

(2) creates, alters, or abolishes a right in respect of the redemption of the shares, including a provision respecting a sinking fund for the redemption or repurchase of the shares;

(3) alters or abolishes a preemptive right of the holder of the shares to acquire shares, securities other than shares, or rights to purchase shares or securities other than shares;

(4) excludes or limits the right of a shareholder to vote on a matter, or to cumulate votes, except as the right may be excluded or limited through the authorization or issuance of securities of an existing or new class or series with similar or different voting rights; except that an amendment to the articles of an issuing public corporation that provides that section 302A.671 does not apply to a control share acquisition does not give rise to the right to obtain payment under this section; or

(5) eliminates the right to obtain payment under this subdivision;

(b) a sale, lease, transfer, or other disposition of ~~all or substantially all of the property and assets of the corporation, but not including a transaction permitted without shareholder approval in that requires shareholder approval under section 302A.661, subdivision 1, or 2, but not including a disposition in dissolution described in section 302A.725, subdivision 2, or a disposition pursuant to an order of a court, or a disposition for cash on terms requiring that all or substantially all of the net proceeds of disposition be distributed to the shareholders in accordance with their respective interests within one year after the date of disposition;~~

(c) a plan of merger, whether under this chapter or under chapter 322B, to which the corporation is a constituent organization, except as provided in subdivision 3, and except for a plan of merger adopted under section 302A.626;

(d) a plan of exchange, whether under this chapter or under chapter 322B, to which the corporation is a party as the corporation whose shares will be acquired by the acquiring corporation, except as provided in subdivision 3; ~~or~~

(e) a plan of conversion adopted by the corporation; or

(f) any other corporate action taken pursuant to a shareholder vote with respect to which the

articles, the bylaws, or a resolution approved by the board directs that dissenting shareholders may obtain payment for their shares.

Sec. 17. Minnesota Statutes 2002, section 302A.471, subdivision 3, is amended to read:

Subd. 3. [RIGHTS NOT TO APPLY.] (a) Unless the articles, the bylaws, or a resolution approved by the board otherwise provide, the right to obtain payment under this section does not apply to a shareholder of (1) the surviving corporation in a merger with respect to shares of the shareholder that are not entitled to be voted on the merger and are not canceled or exchanged in the merger or (2) the corporation whose shares will be acquired by the acquiring corporation in a plan of exchange with respect to shares of the shareholder that are not entitled to be voted on the plan of exchange and are not exchanged in the plan of exchange.

(b) If a date is fixed according to section 302A.445, subdivision 1, for the determination of shareholders entitled to receive notice of and to vote on an action described in subdivision 1, only shareholders as of the date fixed, and beneficial owners as of the date fixed who hold through shareholders, as provided in subdivision 2, may exercise dissenters' rights.

(c) Notwithstanding subdivision 1, the right to obtain payment under this section, other than in connection with a plan of merger adopted under section 302A.621, is limited in accordance with the following provisions:

(1) The right to obtain payment under this section is not available for the holders of shares of any class or series of shares that is listed on the New York Stock Exchange or the American Stock Exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.

(2) The applicability of clause (1) is determined as of:

(i) the record date fixed to determine the shareholders entitled to receive notice of, and to vote at, the meeting of shareholders to act upon the corporate action described in subdivision 1; or

(ii) the day before the effective date of corporate action described in subdivision 1 if there is no meeting of shareholders.

(3) Clause (1) is not applicable, and the right to obtain payment under this section is available pursuant to subdivision 1, for the holders of any class or series of shares who are required by the terms of the corporate action described in subdivision 1 to accept for such shares anything other than shares, or cash in lieu of fractional shares, of any class or any series of shares of the corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in clause (1) at the time the corporate action becomes effective.

Sec. 18. Minnesota Statutes 2002, section 302A.473, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF DISSENT.] If the proposed action must be approved by the shareholders and the corporation holds a shareholder meeting, a shareholder who is entitled to dissent under section 302A.471 and who wishes to exercise dissenters' rights must file with the corporation before the vote on the proposed action a written notice of intent to demand the fair value of the shares owned by the shareholder and must not vote the shares in favor of the proposed action.

Sec. 19. Minnesota Statutes 2002, section 302A.473, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF PROCEDURE; DEPOSIT OF SHARES.] (a) After the proposed action has been approved by the board and, if necessary, the shareholders, the corporation shall send to (i) all shareholders who have complied with subdivision 3, (ii) all shareholders who did not sign or consent to a written action that gave effect to the action creating the right to obtain payment under section 302A.471, and to (iii) all shareholders entitled to dissent if no shareholder vote was required, a notice that contains:

(1) the address to which a demand for payment and certificates of certificated shares must be sent in order to obtain payment and the date by which they must be received;

(2) any restrictions on transfer of uncertificated shares that will apply after the demand for payment is received;

(3) a form to be used to certify the date on which the shareholder, or the beneficial owner on whose behalf the shareholder dissents, acquired the shares or an interest in them and to demand payment; and

(4) a copy of section 302A.471 and this section and a brief description of the procedures to be followed under these sections.

(b) In order to receive the fair value of the shares, a dissenting shareholder must demand payment and deposit certificated shares or comply with any restrictions on transfer of uncertificated shares within 30 days after the notice required by paragraph (a) was given, but the dissenter retains all other rights of a shareholder until the proposed action takes effect.

Sec. 20. Minnesota Statutes 2002, section 302A.521, subdivision 1, is amended to read:

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

(b) "Corporation" includes a domestic or foreign corporation that was the predecessor of the corporation referred to in this section in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(c) "Official capacity" means (1) with respect to a director, the position of director in a corporation, (2) with respect to a person other than a director, the elective or appointive office or position held by an officer, member of a committee of the board, or the employment relationship undertaken by an employee of the corporation, and (3) with respect to a director, officer, or employee of the corporation who, while a director, officer, or employee of the corporation, is or was serving at the request of the corporation or whose duties in that position involve or involved service as a director, officer, partner, trustee, governor, manager, employee, or agent of another organization or employee benefit plan, the position of that person as a director, officer, partner, trustee, governor, manager, employee, or agent, as the case may be, of the other organization or employee benefit plan.

(d) "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the corporation.

(e) "Special legal counsel" means counsel who has not represented the corporation or a related organization, or a director, officer, member of a committee of the board, or employee, whose indemnification is in issue.

Sec. 21. Minnesota Statutes 2002, section 302A.651, subdivision 1, is amended to read:

Subdivision 1. [WHEN PERMITTED.] A domestic corporation may merge with, including a merger pursuant to section 302A.621, or participate in an exchange with a foreign corporation or limited liability company by following the procedures set forth in this section, if:

(1) with respect to a merger, the merger is permitted by the laws of the jurisdiction under which the foreign corporation or limited liability company is incorporated or organized; and

(2) with respect to an exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not the exchange is permitted by the laws of the jurisdiction under which the foreign corporation or limited liability company is incorporated or organized.

Sec. 22. Minnesota Statutes 2002, section 302A.661, subdivision 2, is amended to read:

Subd. 2. [SHAREHOLDER APPROVAL; WHEN REQUIRED.] (a) A corporation, by affirmative vote of a majority of the directors present, may sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets, including its good will, not in the usual

and regular course of its business, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board deems expedient, when approved at a regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the voting power of the shares entitled to vote. Written notice of the meeting shall be given to all shareholders whether or not they are entitled to vote at the meeting. The written notice shall state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the corporation.

(b) Shareholder approval is not required under paragraph (a) if, following the sale, lease, transfer, or other disposition of its property and assets, the corporation retains a significant continuing business activity. If a corporation retains a business activity that represented at least (1) 25 percent of the corporation's total assets at the end of the most recently completed fiscal year and (2) 25 percent of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, measured on a consolidated basis with its subsidiaries for each of clauses (1) and (2), then the corporation will conclusively be deemed to have retained a significant continuing business activity.

Sec. 23. [302A.681] [CONVERSION OF CORPORATIONS AND LIMITED LIABILITY COMPANIES.]

Subdivision 1. [CONVERSIONS AUTHORIZED.] A corporation may become a domestic limited liability company, and a domestic limited liability company may become a corporation, in each case pursuant to a plan of conversion.

Subd. 2. [CERTAIN DEFINITIONS.] (a) For purposes of sections 302A.681 to 302A.691, the words, terms, and phrases in paragraphs (b) to (h) have the meanings given them.

(b) "Articles of organization" has the same meaning as it does under section 322B.03, subdivision 6.

(c) "Board of governors" has the same meaning as it does under section 322B.03, subdivision 7.

(d) "Class," when used with reference to membership interests, has the same meaning as it does under section 322B.03, subdivision 10.

(e) "Governor" has the same meaning as it does under section 322B.03, subdivision 24.

(f) "Member" has the same meaning as it does under section 322B.03, subdivision 30.

(g) "Membership interest" has the same meaning as it does under section 322B.03, subdivision 31.

(h) "Series," when used with reference to membership interests, has the same meaning as it does under section 322B.03, subdivision 44.

Sec. 24. [302A.683] [PLAN OF CONVERSION.]

A plan of conversion must contain:

(1) the name of the converting organization;

(2) the name of the converted organization;

(3) whether the converted organization is a corporation or a limited liability company;

(4) the terms and conditions of the proposed conversion;

(5) the manner and basis of converting each ownership interest in the converting organization into ownership interests in the converted organization or, in whole or in part, into money or other property;

(6) a copy of the proposed articles of incorporation or articles of organization of the converted organization; and

(7) any other provisions with respect to the proposed conversion that are deemed necessary or desirable.

Sec. 25. [302A.685] [PLAN APPROVAL.]

Subdivision 1. [BOARD APPROVAL; NOTICE TO OWNERS.] A resolution containing the plan of conversion must be approved by the affirmative vote of a majority of the directors or governors present at a meeting of the board of directors or the board of governors of the converting organization and must then be submitted at a regular or a special meeting to the owners of the converting organization. Written notice must be given to every owner of the converting organization, whether or not entitled to vote at the meeting, not less than 14 days nor more than 60 days before the meeting, in the manner provided in section 302A.435 for notice of a meeting of shareholders or in the manner provided in section 322B.34 for notice of a meeting of members. The written notice must state that a purpose of the meeting is to consider the proposed plan of conversion. A copy or short description of the plan of conversion must be included in or enclosed with the notice.

Subd. 2. [APPROVAL BY OWNERS.] At the meeting, a vote of the owners must be taken on the proposed plan. The plan of conversion is adopted when approved by the affirmative vote of the holders of a majority of the voting power of all shares or membership interests entitled to vote. A class or series of shares or membership interests is entitled to vote as a class or series on the approval of the plan.

Sec. 26. [302A.687] [ARTICLES OF CONVERSION.]

Subdivision 1. [CONTENTS OF ARTICLES.] Upon receiving the approval required by section 302A.685, articles of conversion must be prepared that contain:

(1) the plan of conversion;

(2) the name of the converting organization immediately before the filing of the articles of conversion and the name to which the name of the converting organization is to be changed, which shall be a name that satisfies the laws applicable to the converted organization;

(3) the type of organization that the converted organization will be;

(4) a statement that the plan of conversion has been approved by the converting organization under section 302A.685; and

(5) a copy of the articles of incorporation or the articles of organization of the converted organization.

Subd. 2. [ARTICLES SIGNED, FILED.] The articles of conversion must be signed on behalf of the converting organization and filed with the secretary of state. Filing of the articles of conversion is also deemed to be a filing with the secretary of state of the articles of incorporation or the articles of organization of the converted organization.

Subd. 3. [CERTIFICATE.] The secretary of state shall issue a certificate of conversion and a certificate of incorporation or a certificate of organization to the converted organization or its legal representative.

Sec. 27. [302A.689] [ABANDONMENT OF CONVERSION.]

Subdivision 1. [BY SHAREHOLDERS OR PLAN.] After a plan of conversion has been approved by the owners entitled to vote on the approval of the plan as provided in section 302A.685, and before the effective date of the plan, it may be abandoned:

(1) if the owners of the converting organization entitled to vote on the approval of the plan as provided in section 302A.685 have approved the abandonment at a meeting by the affirmative

vote of the holders of a majority of the voting power of the shares or membership interests entitled to vote;

(2) if the plan itself provides for abandonment and all conditions for abandonment set forth in the plan are met; or

(3) pursuant to subdivision 2.

Subd. 2. [BY BOARD.] A plan of conversion may be abandoned, before the effective date of the plan, by a resolution of the board of directors or the board of governors of the converting organization abandoning the plan of conversion approved by the affirmative vote of a majority of the directors or governors present.

Subd. 3. [FILING OF ARTICLES.] If articles of conversion have been filed with the secretary of state, but have not yet become effective, the converting organization shall file with the secretary of state articles of abandonment that contain:

(1) the name of the converting organization;

(2) the provision of this section under which the plan is abandoned; and

(3) if the plan is abandoned under subdivision 2, the text of the resolution abandoning the plan.

Sec. 28. [302A.691] [EFFECTIVE DATE OR TIME OF CONVERSION; EFFECT.]

Subdivision 1. [EFFECTIVE DATE OR TIME.] A conversion is effective when the articles of conversion are filed with the secretary of state or on a later date or at a later time specified in the articles of conversion.

Subd. 2. [EFFECT ON ORGANIZATION.] (a) A converted organization is for all purposes the same organization as the converting organization, having been incorporated or organized on the date that the converting organization was originally incorporated or organized.

(b) When a conversion becomes effective:

(1) if the converted organization is a corporation, the converted organization has all the rights, privileges, immunities, and powers, and is subject to all the duties and liabilities, of a corporation incorporated under this chapter;

(2) if the converted organization is a limited liability company, the converted organization has all the rights, privileges, immunities, and powers, and is subject to all the duties and liabilities, of a limited liability company organized under chapter 322B;

(3) all property owned by the converting organization remains vested in the converted organization;

(4) all debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;

(5) an action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred; and

(6) all rights, privileges, immunities, and powers of the converting organization remain vested in the converted organization.

Subd. 3. [EFFECT ON SHAREHOLDERS OR MEMBERS.] When a conversion becomes effective, each share or membership interest in the converting organization is deemed to be converted into shares or membership interests in the converted organization or, in whole or in part, into money or other property to be received under the plan by the shareholders or the members, subject to any dissenters' rights under section 302A.471, in the case of shareholders of the converting organization, or section 322B.383, in the case of members of the converting organization.

Sec. 29. Minnesota Statutes 2002, section 302A.723, subdivision 1, is amended to read:

Subdivision 1. [CONTENTS.] If dissolution of the corporation is approved pursuant to section 302A.721, subdivision 2, the corporation shall file with the secretary of state a notice of intent to dissolve. The notice shall contain:

- (a) the name of the corporation;
- (b) the date and place of the meeting at which the resolution was approved pursuant to section 302A.721, subdivision 2; and
- (c) a statement that the requisite vote of the shareholders was received, or that ~~all~~ the requisite shareholders entitled to vote signed a written action.

Sec. 30. Minnesota Statutes 2002, section 317A.011, is amended by adding a subdivision to read:

Subd. 3b. [BALLOT.] "Ballot" means a written ballot or a ballot transmitted by electronic communication.

Sec. 31. Minnesota Statutes 2002, section 317A.011, subdivision 14, is amended to read:

Subd. 14. [NOTICE.] (a) "Notice" is given by a member of a corporation to the corporation or an officer of the corporation when in writing and mailed or delivered to the corporation or the officer at the registered office of the corporation.

- (b) Notice is given by the corporation to a director, officer, member, or other person:
 - (1) when mailed to the person at an address designated by the person, at the last known address of the person or, in the case of a director, officer, or member, at the address of the person in the corporate records;
 - (2) when communicated to the person orally;
 - (3) when handed to the person;
 - (4) when left at the office of the person with a clerk or other person in charge of the office, or if there is no one in charge, when left in a conspicuous place in the office;
 - (5) if the person's office is closed or the person to be notified has no office, when left at the dwelling or usual place of abode of the person with a person of suitable age and discretion residing in the house; ~~or~~
 - (6) when provided to the person by means of electronic communication as provided under section 317A.231 or 317A.450; or
 - (7) when the method is fair and reasonable when all the circumstances are considered.
- (c) Notice by mail is given when deposited in the United States mail with sufficient postage. Notice is considered received when it is given.

Sec. 32. Minnesota Statutes 2002, section 317A.231, subdivision 4, is amended to read:

Subd. 4. [CALLING MEETINGS; NOTICE.] (a) Unless the articles or bylaws provide otherwise, a director may call a board meeting by giving five days' notice to all directors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless the articles or bylaws require it.

(b) If the day or date, time, and place of a board meeting have been provided in the articles or bylaws, or announced at a previous meeting of the board, notice is not required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken.

(c) Any notice to a director given under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the director to whom the notice is given is effective when given. The notice is deemed given if by:

(1) facsimile communication, when directed to a telephone number at which the director has consented to receive notice;

(2) electronic mail, when directed to an electronic mail address at which the director has consented to receive notice;

(3) a posting on an electronic network on which the director has consented to receive notice, together with a separate notice to the director of the specific posting, upon the later of:

(i) the posting; or

(ii) the giving of the separate notice; and

(4) any other form of electronic communication by which the director has consented to receive notice, when directed to the director.

An affidavit of the secretary, other authorized officer, or authorized agent of the corporation, that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit.

(d) Consent by a director to notice given by electronic communication may be given in writing or by authenticated electronic communication. Any consent so given may be relied upon until revoked by the director, provided that no revocation affects the validity of any notice given before receipt of revocation of the consent.

Sec. 33. Minnesota Statutes 2002, section 317A.231, subdivision 5, is amended to read:

Subd. 5. [WAIVER OF NOTICE.] A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, by authenticated electronic communication, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, unless the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting.

Sec. 34. Minnesota Statutes 2003 Supplement, section 317A.443, subdivision 2, is amended to read:

Subd. 2. [METHODS.] Unless otherwise provided in the articles or bylaws, members may take action at a meeting by voice or ballot, by unanimous action without a meeting under section 317A.445, by ~~written~~ ballot under section 317A.447, or by ~~electronic~~ remote communication under section 317A.450.

Sec. 35. Minnesota Statutes 2002, section 317A.447, is amended to read:

317A.447 [ACTION BY WRITTEN BALLOT.]

(a) Except as provided in paragraph (e) and unless prohibited or limited by the articles or bylaws, an action that may be taken at a regular or special meeting of members may be taken without a meeting if the corporation mails or otherwise delivers a written ballot to every member entitled to vote on the matter. A corporation may deliver a ballot by electronic communication only if the corporation complies with section 317A.450, subdivision 5, as if the ballot were a notice. Consent by a member to receive notice by electronic communication in a certain manner constitutes consent to receive a ballot by electronic communication in the same manner.

(b) A ~~written~~ ballot must:

(1) set forth each proposed action; and

(2) provide an opportunity to vote for or against each proposed action.

(c) Approval by ~~written~~ ballot under this section is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) Solicitations for votes by written ballot must:

(1) indicate the number of responses needed to meet the quorum requirements;

(2) state the percentage of approvals necessary to approve each matter other than election of directors; and

(3) specify the time by which a ballot must be received by the corporation in order to be counted.

(e) Except as otherwise provided in the articles or bylaws, a ~~written~~ ballot may not be revoked.

(f) A ballot delivered to the corporation by electronic communication is valid only if authenticated as provided in section 317A.011, subdivision 3a.

Sec. 36. Minnesota Statutes 2002, section 322B.03, subdivision 36a, is amended to read:

Subd. 36a. [PARENT.] "Parent" of a specified limited liability company means a limited liability company or a foreign limited liability company that directly or indirectly through related organizations owns more than 50 percent of the voting power of the membership interests entitled to vote for governors of the specified limited liability company.

Sec. 37. Minnesota Statutes 2002, section 322B.03, subdivision 45a, is amended to read:

Subd. 45a. [SUBSIDIARY.] "Subsidiary" of a specified limited liability company means a limited liability company or a foreign limited liability company having more than 50 percent of the voting power of its membership interests entitled to vote for governors owned directly or indirectly through related organizations by the specified limited liability company.

Sec. 38. Minnesota Statutes 2002, section 322B.115, subdivision 2, is amended to read:

Subd. 2. [STATUTORY PROVISIONS THAT MAY BE MODIFIED ONLY IN ARTICLES OF ORGANIZATION OR A MEMBER CONTROL AGREEMENT.] The following provisions govern a limited liability company unless modified in the articles of organization or a member control agreement under section 322B.37:

(1) a limited liability company has general business purposes (section 322B.10);

(2) a limited liability company has certain powers (section 322B.20);

(3) the power to adopt, amend, or repeal the bylaws is vested in the board of governors (section 322B.603);

(4) a limited liability company must allow cumulative voting for governors (section 322B.63, subdivision 2);

(5) the affirmative vote of a majority of governors present is required for an action of the board of governors (section 322B.653);

(6) a written action by the board of governors taken without a meeting must be signed by all governors (section 322B.656);

(7) the board may accept contributions, make contribution agreements, and make contribution allowance agreements (sections 322B.40, subdivision 1; 322B.42; and 322B.43);

(8) all membership interests are ordinary membership interests entitled to vote and are of one class with no series (section 322B.40, subdivision 5, clauses (1) and (2));

(9) all membership interests have equal rights and preferences in all matters not otherwise provided for by the board of governors (section 322B.40, subdivision 5, clause (2));

(10) the value of previous contributions is to be restated when a new contribution is accepted (section 322B.41);

(11) a member has certain preemptive rights, unless otherwise provided by the board of governors (section 322B.33);

(12) the affirmative vote of the owners of a majority of the voting power of the membership interests present and entitled to vote at a duly held meeting is required for an action of the members, except where this chapter requires the affirmative vote of a plurality of the votes cast (section 322B.63, subdivision 1) or a majority of the voting power of all membership interests entitled to vote (section 322B.35, subdivision 1);

(13) the voting power of each membership interest is in proportion to the value reflected in the required records of the contributions of the members (section 322B.356);

(14) members share in distributions in proportion to the value reflected in the required records of the contributions of members (section 322B.50);

(15) members share profits and losses in proportion to the value reflected in the required records of the contributions of members (section 322B.326);

(16) a written action by the members taken without a meeting must be signed by all members (section 322B.35);

(17) members have no right to receive distributions in kind and the limited liability company has only limited rights to make distributions in kind (section 322B.52);

(18) a member is not subject to expulsion (section 322B.306, subdivision 2);

(19) unanimous consent is required for the transfer of governance rights to a person not already a member (section 322B.313, subdivision 2);

(20) for limited liability companies whose existence begins before August 1, 1999, unanimous consent is required to avoid dissolution (section 322B.80, subdivision 1, clause (5)(i));

(21) the termination of a person's membership interest has specified consequences (section 322B.306); and

(22) restrictions apply to the assignment of governance rights (section 322B.313).

Sec. 39. Minnesota Statutes 2002, section 322B.155, is amended to read:

322B.155 [CLASS OR SERIES VOTING ON AMENDMENTS.]

The owners of the outstanding membership interests of a class or series are entitled to vote as a class or series upon a proposed amendment to the articles of organization, whether or not entitled to vote on the amendment by the provisions of the articles of organization, if the amendment would:

(1) effect an exchange, reclassification, or cancellation of all or part of the membership interests of the class or series, or effect a combination of outstanding membership interests of a class or series into a lesser number of membership interests of the class or series where each other class or series is not subject to a similar combination;

(2) effect an exchange, or create a right of exchange, of all or any part of the membership interests of another class or series for the membership interests of the class or series;

- (3) change the rights or preferences of the membership interests of the class or series;
- (4) ~~change the membership interests of the class or series into the same or a different number of membership interests of another class or series;~~
- (5) create a new class or series of membership interests having rights and preferences prior and superior to the membership interests of that class or series, or increase the rights and preferences or the number of membership interests, of a class or series having rights and preferences prior or superior to the membership interests of that class or series;
- (6) ~~(5) divide the membership interests of the class into series and determine the designation of each series and the variations in the relative rights and preferences between the membership interests of each series or authorize the board of governors to do so;~~
- (7) ~~(6) limit or deny any existing preemptive rights of the membership interests of the class or series; or~~
- (8) ~~(7) cancel or otherwise affect distributions on the membership interests of the class or series.~~

Sec. 40. Minnesota Statutes 2002, section 322B.346, subdivision 1, is amended to read:

Subdivision 1. [MAJORITY REQUIRED.] Except for the election of governors, which is governed by section 322B.63, the members shall take action by the affirmative vote of the owners of the greater of: (1) a majority of the voting power of the membership interests present and entitled to vote on that item of business; or (2) a majority of the voting power that would constitute a quorum for the transaction of business at the meeting, except where this chapter, the articles of organization, or a member control agreement, require a larger proportion. If the articles or a member control agreement require a larger proportion than is required by this chapter for a particular action, the articles or the member control agreement control.

Sec. 41. Minnesota Statutes 2002, section 322B.35, subdivision 1, is amended to read:

Subdivision 1. [METHOD.] An action required or permitted to be taken at a meeting of the members may be taken by written action signed, or consented to by authenticated electronic communication, by all of the members. If the articles or a member control agreement so provide, any action may be taken by written action signed, or consented to by authenticated electronic communication, by the members who own voting power equal to the voting power that would be required to take the same action at a meeting of the members at which all members were present. After the adoption of the initial articles or the first making of a member control agreement, an amendment to the articles or to a member control agreement to permit written action to be taken by less than all members requires the approval of all the members entitled to vote on the amendment.

Sec. 42. Minnesota Statutes 2002, section 322B.383, subdivision 1, is amended to read:

Subdivision 1. [ACTIONS CREATING DISSENTERS' RIGHTS.] Subject to a member control agreement under section 322B.37, a member of a limited liability company may dissent from, and obtain payment for the fair value of the member's membership interests in the event of, any of the following limited liability company actions:

(1) unless otherwise provided in the articles, an amendment of the articles of organization, but not an amendment to a member control agreement, which materially and adversely affects the rights or preferences of the membership interests of the dissenting member in that it:

- (i) alters or abolishes a preferential right of the membership interests;
- (ii) creates, alters, or abolishes a right in respect of the redemption of the membership interests, including a provision respecting a sinking fund for the redemption or repurchase of the membership interests;

(iii) alters or abolishes a preemptive right of the owner of the membership interests to make a contribution;

(iv) excludes or limits the right of a member to vote on a matter, or to cumulate votes, except as the right may be excluded or limited through the acceptance of contributions or the making of contribution agreements pertaining to membership interests with similar or different voting rights;

(v) changes a member's right to resign or retire;

(vi) establishes or changes the conditions for or consequences of expulsion; or

(vii) eliminates the right to obtain payment under clause (1);

(2) a sale, lease, transfer, or other disposition of ~~all or substantially all of the~~ property and assets of the limited liability company, ~~but not including a transaction permitted without that requires member approval in under section 322B.77, subdivision 1 2, or but not including a disposition in dissolution described in section 322B.813, subdivision 4, or a disposition pursuant to an order of a court, or a disposition for cash on terms requiring that all or substantially all of the net proceeds of disposition be distributed to the members in accordance with their respective membership interests within one year after the date of disposition;~~

(3) a plan of merger to which the limited liability company is a constituent organization;

(4) a plan of exchange to which the limited liability company is a party as the organization whose ownership interests will be acquired by the acquiring organization, if the membership interests being acquired are entitled to be voted on the plan; ~~or~~

(5) a plan of conversion under section 302A.683; or

(6) any other limited liability company action taken pursuant to a member vote with respect to which the articles of organization, a member control agreement, the bylaws, or a resolution approved by the board of governors directs that dissenting members may obtain payment for their membership interests.

Sec. 43. Minnesota Statutes 2002, section 322B.386, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF DISSENT.] If the proposed action must be approved by the members and the limited liability company holds a meeting of members, a member who is entitled to dissent under section 322B.383 and who wishes to exercise dissenters' rights must file with the limited liability company before the vote on the proposed action a written notice of intent to demand the fair value of the membership interests owned by the member and must not vote the membership interests in favor of the proposed action.

Sec. 44. Minnesota Statutes 2002, section 322B.386, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF PROCEDURE.] (a) After the proposed action has been approved by the board of governors and, if necessary, the members, the limited liability company shall send to (i) all members who have complied with subdivision 3, (ii) all members who did not sign or consent to a written action that gave effect to the action creating the right to obtain payment under section 322B.383, and to (iii) all members entitled to dissent if no member vote was required, a notice that contains:

(1) the address to which a demand for payment must be sent in order to obtain payment and the date by which the demand must be received;

(2) a form to be used to certify the date on which the member acquired the membership interests and to demand payment; and

(3) a copy of section 322B.383 and this section and a brief description of the procedures to be followed under these sections.

(b) In order to receive the fair value of the membership interests, a dissenting member must

demand payment within 30 days after the notice required by paragraph (a) was given, but the dissenter retains all other rights of a member until the proposed action takes effect.

Sec. 45. Minnesota Statutes 2002, section 322B.40, subdivision 6, is amended to read:

Subd. 6. [PROCEDURE FOR FIXING TERMS.] (a) Subject to any restrictions in the articles of organization or a member control agreement, the power granted in subdivision 5 may be exercised by a resolution or resolutions establishing a class or series, setting forth the designation of the class or series, and fixing the relative rights and preferences of the class or series. Any of the rights and preferences of a class or series established in the articles of organization, in a member control agreement, or by resolution of the board of governors:

(1) may be made dependent upon facts ascertainable outside the articles of organization, or outside the resolution or resolutions establishing the class or series, if the manner in which the facts operate upon the rights and preferences of the class or series is clearly and expressly set forth in the articles of organization or in the resolution or resolutions establishing the class or series; and

(2) may incorporate by reference some or all of the terms of any agreements, contracts, or other arrangements entered into by the limited liability company in connection with the establishment of the class or series if the limited liability company retains at its principal executive office a copy of the agreements, contracts, or other arrangements or the portions incorporated by reference.

(b) A statement setting forth the name of the limited liability company and the text of the resolution and certifying the adoption of the resolution and the date of adoption must be filed with the secretary of state before the acceptance of any contributions for which the resolution creates rights or preferences not set forth in the articles of organization or a member control agreement. However, where the members have received notice of the creation of membership interests with rights or preferences not set forth in the articles of organization or a member control agreement before the acceptance of the contributions with respect to the membership interests, the statement may be filed any time within one year after the acceptance of contributions. The resolution is effective when the statement has been filed with the secretary of state; or, if it is not required to be filed with the secretary of state before the acceptance of contributions, on the date of its adoption by the governors.

(c) Filing a statement filed with the secretary of state in accordance with paragraph (b) is not considered an amendment of the articles of organization for purposes of sections 322B.15, 322B.155, and 322B.383. Filing an amendment of such a statement with the secretary of state is considered an amendment of the articles for purposes of sections 322B.15, 322B.155, and 322B.383.

Sec. 46. Minnesota Statutes 2002, section 322B.63, is amended to read:

322B.63 [CUMULATIVE VOTING FOR GOVERNORS; CUMULATIVE VOTING.]

Subdivision 1. [REQUIRED VOTE.] Unless otherwise provided in the articles, governors are elected by a plurality of the voting power of the membership interests present and entitled to vote on the election of governors at a meeting at which a quorum is present.

Subd. 2. [CUMULATIVE VOTING RIGHTS.] Unless the articles of organization or a member control agreement provide that there is no cumulative voting, and except as provided in section 322B.636, subdivision 5, each member entitled to vote for governors has the right to cumulate voting power in the election of governors by giving written notice of intent to cumulate voting power to any manager of the limited liability company before the meeting, or to the presiding manager at the meeting at which the election is to occur at any time before the election of governors at the meeting, in which case:

(1) the presiding manager at the meeting shall announce, before the election of governors, that members shall cumulate their voting power; and

(2) each member shall cumulate that voting power either by casting for one candidate the amount of voting power equal to the number of governors to be elected multiplied by the voting

power represented by the membership interests owned by that member, or by distributing all of that voting power on the same principle among any number of candidates.

Subd. 2 3. [MODIFICATIONS OF CUMULATIVE VOTING.] No amendment to the articles or bylaws that has the effect of denying, limiting, or modifying the right to cumulative voting for members provided in this section may be adopted if the votes of a proportion of the voting power sufficient to elect a governor at an election of the entire board of governors under cumulative voting are cast against the amendment.

Sec. 47. Minnesota Statutes 2002, section 322B.643, subdivision 4, is amended to read:

Subd. 4. [CALLING MEETINGS AND NOTICE.] (a) Unless the articles of organization, a member control agreement, or bylaws provide for a different time period, a governor may call a board meeting by giving at least ten days' notice or, in the case of organizational meetings under section 322B.60, subdivision 2, at least three days' notice to all governors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless the articles, a member control agreement, or bylaws require it.

(b) Any notice to a governor given under any provision of this chapter, the articles, a member control agreement, or the bylaws by a form of electronic communication consented to by the governor to whom the notice is given is effective when given. The notice is deemed given if by:

(1) facsimile communication, when directed to a telephone number at which the governor has consented to receive notice;

(2) electronic mail, when directed to an electronic mail address at which the governor has consented to receive notice; and

(3) any other form of electronic communication by which the governor has consented to receive notice, when directed to the governor.

(c) Consent by a governor to notice given by electronic communication may be given in writing or by authenticated electronic communication. Any consent so given may be relied upon until revoked by the governor, provided that no revocation affects the validity of any notice given before receipt of revocation of the consent.

Sec. 48. Minnesota Statutes 2002, section 322B.643, subdivision 6, is amended to read:

Subd. 6. [WAIVER OF NOTICE.] A governor may waive notice of a meeting of the board of governors. A waiver of notice by a governor entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, by authenticated electronic communication, or by attendance. Attendance by a governor at a meeting is a waiver of notice of that meeting, except where the governor objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

Sec. 49. Minnesota Statutes 2002, section 322B.77, subdivision 2, is amended to read:

Subd. 2. [MEMBER APPROVAL AND WHEN REQUIRED.] (a) A limited liability company, by affirmative vote of a majority of the governors present, may sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its business, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of governors considers expedient, when approved at a regular or special meeting of the members by the affirmative vote of the owners of a majority of the voting power of the interests entitled to vote. Written notice of the meeting must be given to all members whether or not they are entitled to vote at the meeting. The written notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the limited liability company.

(b) Member approval is not required under paragraph (a) if, following the sale, lease, transfer,

or other disposition of its property and assets, the limited liability company retains a significant continuing business activity. If a limited liability company retains a business activity that represented at least (i) 25 percent of the limited liability company's total assets at the end of the most recently completed fiscal year and (ii) 25 percent of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, measured on a consolidated basis with its subsidiaries for each of clauses (i) and (ii), then the limited liability company will conclusively be deemed to have retained a significant continuing business activity.

Sec. 50. [322B.78] [CONVERSION.]

A domestic limited liability company may convert to a domestic corporation pursuant to sections 302A.681 to 302A.691.

ARTICLE 15

FISCAL YEAR 2005 FUNDING

Section 1. [CHAPTERS 321 AND 322A FILING FEES.]

(a) Notwithstanding Minnesota Statutes, section 321.206 and chapter 322A, and effective July 1, 2004, the fee for filing a limited partnership is \$200; the fee for filing an amended certificate of limited partnership is \$100; the fee for filing a certificate requesting authority to transact business in Minnesota as a foreign limited partnership is \$200; and the fee for filing any other record, other than an annual registration prior to revocation of authority to transact business in Minnesota, required or permitted to be delivered for filing on a foreign limited partnership authorized to transact business in Minnesota is \$100.

(b) This section expires June 30, 2005.

Sec. 2. [APPROPRIATION.]

\$75,000 is appropriated in fiscal year 2005 from the general fund to the secretary of state for purposes of implementing this act. This is a onetime appropriation."

Amend the title as follows:

Page 1, line 2, delete "limited partnerships" and insert "business organizations"

Page 1, line 5, after the semicolon, insert "regulating the organization, structure, and governance of business corporations, nonprofit corporations, and limited liability companies; appropriating money;"

Page 1, delete lines 6 to 9 and insert "5.25, subdivision 1; 302A.011, subdivisions 21, 31, 49, 51, by adding subdivisions; 302A.111, subdivision 2; 302A.115, subdivision 1; 302A.137; 302A.215; 302A.231, subdivisions 4, 6; 302A.401, subdivision 3; 302A.402, subdivision 2; 302A.437, subdivision 1; 302A.441; 302A.471, subdivisions 1, 3; 302A.473, subdivisions 3, 4; 302A.521, subdivision 1; 302A.651, subdivision 1; 302A.661, subdivision 2; 302A.723, subdivision 1; 308A.121, subdivision 1; 317A.011, subdivision 14, by adding a subdivision; 317A.115, subdivision 2; 317A.231, subdivisions 4, 5; 317A.447; 322B.03, subdivisions 36a, 45a; 322B.115, subdivision 2; 322B.12, subdivision 1; 322B.155; 322B.346, subdivision 1; 322B.35, subdivision 1; 322B.383, subdivision 1; 322B.386, subdivision 3, 4; 322B.40, subdivision 6; 322B.63; 322B.643, subdivisions 4, 6; 322B.77, subdivision 2; 323A.1-01; Minnesota Statutes 2003 Supplement, section 317A.443, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 302A; 322B; proposing coding for new law as Minnesota Statutes, chapter 321;"

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

SECOND READING OF SENATE BILLS

S.F. No. 1803 was read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Betzold introduced--

S.F. No. 3041: A bill for an act relating to retirement; unclassified state employees retirement program of the Minnesota State Retirement System; permitting a posthumous coverage transfer election in certain cases.

Referred to the Committee on State and Local Government Operations.

Senators Neuville and Senjem introduced--

S.F. No. 3042: A bill for an act relating to education finance; allowing school boards to elect to levy debt service against referendum market value; amending Minnesota Statutes 2002, sections 123B.53, by adding a subdivision; 123B.55; 123B.71, subdivision 9; Minnesota Statutes 2003 Supplement, section 123B.53, subdivision 4.

Referred to the Committee on Taxes.

Senators Nienow, Hann, Jungbauer, Pariseau and Limmer introduced--

S.F. No. 3043: A bill for an act relating to child protection; requiring certain notice to the subject of a child maltreatment report; requiring certain training for child abuse services professionals; amending Minnesota Statutes 2002, section 626.559, subdivision 2; Minnesota Statutes 2003 Supplement, section 626.556, subdivision 10.

Referred to the Committee on Crime Prevention and Public Safety.

MEMBERS EXCUSED

Senators Neuville and Rosen were excused from the Session of today from 11:00 to 11:20 a.m. Senators Berglin and Johnson, D.J. were excused from the Session of today from 11:00 to 11:25 a.m. Senator Limmer was excused from the Session of today from 11:00 to 11:30 a.m. Senator Chaudhary was excused from the Session of today from 11:00 to 11:35 a.m. Senator Wiger was excused from the Session of today at 11:55 a.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 11:00 a.m., Thursday, April 22, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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