

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-FOURTH LEGISLATURE

FIFTY-SECOND DAY

St. Paul, Minnesota, Wednesday, May 4, 2005

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Craig Richter.

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

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 284, 879, 1016, 1056, 1841 and 1486.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 3, 2005

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 731, 1394 and 42.

Albin A. Mathiowetz, Chief Clerk, House of Representatives
Transmitted May 3, 2005

FIRST READING OF HOUSE BILLS

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

H.F. No. 731: A bill for an act relating to the environment; modifying individual sewage treatment system inspection requirements to avoid conflicts of interest; amending Minnesota Statutes 2004, section 115.55, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 63, now on General Orders.

H.F. No. 1394: A bill for an act relating to veterans; authorizing the placement of a plaque in the court of honor on the capitol grounds to honor the veterans of the Persian Gulf War.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1623, now on General Orders.

H.F. No. 42: A bill for an act relating to firearms; authorizing the use of silencers to muffle discharges of firearms for natural resource wildlife control; amending Minnesota Statutes 2004, section 609.66, subdivisions 1h, 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 149, now on General Orders.

REPORTS OF COMMITTEES

Senator Betzold moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

H.F. No. 68 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. |
| 68 | 457 | | | | |

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 68 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 68 and insert the language after the enacting clause of S.F. No. 457; further, delete the title of H.F. No. 68 and insert the title of S.F. No. 457.

And when so amended H.F. No. 68 will be identical to S.F. No. 457, and further recommends that H.F. No. 68 be given its second reading and substituted for S.F. No. 457, 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. 894 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. |
| 894 | 935 | | | | |

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 894 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 894 and insert the language after the enacting clause of S.F. No. 935, the first engrossment; further, delete the title of H.F. No. 894 and insert the title of S.F. No. 935, the first engrossment.

And when so amended H.F. No. 894 will be identical to S.F. No. 935, and further recommends that H.F. No. 894 be given its second reading and substituted for S.F. No. 935, 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. 1692 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| 1692 | 1598 | | | | |

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

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| 436 | 929 | | | | |

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.

SECOND READING OF HOUSE BILLS

H.F. Nos. 68, 894, 1692 and 436 were read the second time.

MOTIONS AND RESOLUTIONS

Senator LeClair moved that his name be stricken as chief author, and the name of Senator Berglin be added as chief author to S.F. No. 1313. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Senator Betzold moved that the Senate take up the Introduction and First Reading of Senate Bills. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Kubly introduced--

S.F. No. 2285: A bill for an act relating to local government; providing a process for combining the offices of county auditor and treasurer, and making certain county offices appointive in Lac qui Parle County.

Referred to the Committee on State and Local Government Operations.

RECESS

Senator Betzold moved that the Senate do now recess until 11:00 a.m. The motion prevailed.

The hour of 11:00 a.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Senator Johnson, D.E. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Larson moved that his name be stricken as a co-author to S.F. No. 609. The motion prevailed.

Senator Kleis moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Ranum be added as chief author to S.F. No. 609. The motion prevailed.

RECONSIDERATION

Having voted on the prevailing side, Senator Johnson, D.E. moved that the vote whereby S.F. No. 2273 was passed by the Senate on May 3, 2005, be now reconsidered. The motion prevailed. So the vote was reconsidered.

Senator Johnson, D.E. moved that S.F. No. 2273 be laid on the table. The motion prevailed.

Senator Johnson, D.E. moved that H.F. No. 1 be taken from the table. The motion prevailed.

H.F. No. 1: A bill for an act relating to public safety; appropriating money for the courts, Public Safety, and Corrections Departments, the Peace Officer Standards and Training Board, the Private Detective Board, Human Rights Department, and the Sentencing Guidelines Commission; making a standing appropriation for bond service for the 911 system; appropriating money for methamphetamine grants, homeless outreach grants, and youth intervention grants; requiring life without release sentences for certain egregious first degree criminal sexual conduct offenses; requiring indeterminate life sentences for certain sex offenses; increasing statutory maximum sentences for sex offenses; authorizing asexualization for certain sex offenders; requiring certain predatory offenders to obtain marked vehicle license plates and drivers' licenses or identification cards; establishing the Minnesota Sex Offender Review Board and providing its responsibilities, including release decisions, access to data, expedited rulemaking, and the applicability to it of contested case proceedings and the Open Meeting Law; directing the Sentencing Guidelines Commission to modify the sentencing guidelines; providing criminal penalties; modifying predatory offender registration and community notification requirements; expanding Department of Human Services access to the predatory offender registry; modifying the human services criminal background check law; establishing an ongoing Sex Offender Policy Board to develop uniform supervision and professional standards; requesting the Supreme Court to study use of the court system as an alternative to the administrative process for discharge of persons committed as sexually dangerous persons or sexual psychopathic personalities; making miscellaneous technical and conforming amendments to the sex offender law; requiring level III sex offenders to submit to polygraphs as a condition of release; providing that computers are subject to forfeiture if used to commit designated offenses; amending fire marshal safety law; defining explosives for purposes of rules regulating storage and use of explosives; transferring the youth intervention program to the Department of Public Safety; amending the Emergency Communications Law by assessing fees and authorizing issuance of bonds for the third phase of the statewide public safety radio communication system; requiring a statewide human trafficking assessment and study; establishing a gang and drug oversight council and a financial crimes oversight council; requiring correctional facilities to provide the Bureau of Criminal Apprehension with certain fingerprint information; requiring law enforcement agencies to take biological specimens for DNA analysis for persons arrested for designated crimes in 2005 and further crimes in 2010; establishing correctional officers discipline procedures; increasing surcharges on criminal and traffic offenders; changing certain waiting periods for limited drivers' licenses; changing provisions relating to certain drivers' license restrictions; limiting public defender representation; authorizing public defender access to certain criminal justice data; requiring the revisor of statutes to publish a table containing cross-references to Minnesota Laws imposing collateral sanctions; requiring background checks for certain child care and placement situations; requiring the finder of fact to find a severe aggravating factor before imposing a sentence in excess of that provided by the Sentencing Guidelines; providing procedures where state intends to seek an aggravated durational departure; defining new crimes, amending crimes and imposing criminal penalties; prohibiting persons from operating motor vehicles containing traffic signal-override devices; requiring restraint of children under the age of seven; providing for a study on sentencing policy; requiring a report by counties to the legislature on level III sex offenders; amending Minnesota Statutes 2004, sections 2.722, subdivision 1; 13.461, by adding subdivisions; 13.6905, subdivision 17; 13.82, by adding a subdivision; 13.851, subdivision 5, by adding a subdivision; 13.87, subdivision 3; 13.871, subdivision 5; 13D.05, subdivision 2; 16C.09; 43A.047; 84.362; 116L.30; 144.335, by adding a subdivision; 144A.135; 152.02, subdivisions 4, 5; 168.12, by adding a subdivision; 169.06, by adding a subdivision; 169.71, subdivision 1; 169A.275, subdivision 1; 169A.52, subdivision 4; 169A.60, subdivisions 10, 11; 169A.63, subdivision 8; 169A.70, subdivision 3, by adding subdivisions; 171.07, subdivisions 1, 3; 171.09; 171.20, subdivision 4; 171.26; 171.30, subdivision 2a; 214.04, subdivision 1; 216D.08, subdivisions 1, 2; 237.70, subdivision 7; 241.67, subdivision 3; 242.195, subdivision 1; 243.1606, subdivision 1; 243.166; 243.167; 243.24, subdivision 2; 244.05, subdivisions 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding subdivisions; 244.09, subdivision 5; 244.10, subdivision 2, by adding subdivisions; 244.18, subdivision 2; 245C.03, subdivision 1; 245C.13, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.17, subdivisions 1, 2, 3; 245C.21, subdivisions 3, 4; 245C.22, by adding a subdivision; 245C.23, subdivision 1; 245C.24, subdivisions 2, 3, 4, by adding a subdivision; 245C.30, subdivisions 1, 2; 246.13; 253B.18, subdivisions 4a, 5, by adding a subdivision; 259.11; 259.24, subdivisions 1, 2a, 5, 6a; 260C.201, subdivision 11; 260C.212, subdivision 4; 282.04, subdivision 2; 299A.38, subdivisions

2, 2a, 3; 299A.465, by adding subdivisions; 299C.03; 299C.08; 299C.093; 299C.095, subdivision 1; 299C.10, subdivision 1, by adding a subdivision; 299C.11; 299C.14; 299C.145, subdivision 3; 299C.155; 299C.21; 299C.65, subdivisions 1, 2, 5, by adding a subdivision; 299F.011, subdivision 7; 299F.014; 299F.05; 299F.051, subdivision 4; 299F.06, subdivision 1; 299F.19, subdivisions 1, 2; 299F.362, subdivisions 3, 4; 299F.391, subdivision 1; 299F.46, subdivisions 1, 3; 325F.04; 326.3382, by adding a subdivision; 326.3384, subdivision 1; 343.31; 357.021, subdivisions 6, 7; 357.18, subdivision 3; 403.02, subdivisions 7, 13, 17, by adding a subdivision; 403.025, subdivisions 3, 7; 403.05, subdivision 3; 403.07, subdivision 3; 403.08, subdivision 10; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 8; 403.27, subdivisions 3, 4, by adding subdivisions; 403.30, subdivisions 1, 3, by adding subdivisions; 508.82, subdivision 1; 508A.82, subdivision 1; 518B.01, by adding a subdivision; 590.01, subdivision 1, by adding a subdivision; 609.02, subdivision 16; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 3, 4, 5, 6, 7; 609.1095, subdivisions 2, 4; 609.115, by adding a subdivision; 609.117; 609.1351; 609.185; 609.2231, subdivision 3; 609.2242, subdivision 3; 609.229, subdivision 3, by adding a subdivision; 609.321, subdivision 12; 609.341, subdivision 14, by adding subdivisions; 609.342, subdivisions 2, 3; 609.343, subdivisions 2, 3; 609.344, subdivisions 2, 3; 609.345, subdivisions 2, 3; 609.347; 609.3471; 609.348; 609.353; 609.485, subdivisions 2, 4; 609.487, by adding a subdivision; 609.50, subdivision 1; 609.505; 609.52, subdivision 2; 609.527, subdivisions 1, 3, 4, 6, by adding a subdivision; 609.531, subdivision 1; 609.5311, subdivisions 2, 3; 609.5312, subdivisions 1, 3, 4, by adding a subdivision; 609.5314, subdivision 1; 609.5317, subdivision 1; 609.5318, subdivision 1; 609.605, subdivisions 1, 4; 609.725; 609.748, subdivisions 2, 3a, by adding a subdivision; 609.749, subdivision 2; 609.763, subdivision 3; 609.79, subdivision 2; 609.795, by adding a subdivision; 609A.02, subdivision 3; 609A.03, subdivision 7; 611.14; 611.16; 611.25, subdivision 1; 611.272; 611A.01; 611A.036; 611A.19; 611A.53, subdivision 1b; 617.23, subdivisions 2, 3; 624.22, subdivision 1; 626.04; 626.556, subdivision 3; 626.557, subdivisions 12b, 14; 631.045; 631.425, subdivision 4; 641.21; Laws 2004, chapter 201, section 22; proposing coding for new law in Minnesota Statutes, chapters 171; 241; 243; 244; 260C; 299A; 299C; 590; 609; 611; 629; proposing coding for new law as Minnesota Statutes, chapter 545A; repealing Minnesota Statutes 2004, sections 69.011, subdivision 5; 243.162; 243.166, subdivisions 1, 8; 244.10, subdivisions 2a, 3; 246.017, subdivision 1; 299A.64; 299A.65; 299A.66; 299A.68; 299C.65, subdivisions 3, 4, 6, 7, 8, 8a, 9; 299F.011, subdivision 4c; 299F.015; 299F.10; 299F.11; 299F.12; 299F.13; 299F.14; 299F.15; 299F.16; 299F.17; 299F.361; 299F.451; 299F.452; 403.025, subdivision 4; 403.30, subdivision 2; 609.108, subdivisions 2, 4, 5; 609.109, subdivisions 2, 4, 6; 609.119; 611.18; 624.04; Laws 2004, chapter 283, section 14.

SUSPENSION OF RULES

Senator Johnson, D.E. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1 and that the rules of the Senate be so far suspended as to give H.F. No. 1 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1 was read the second time.

Senator Ranum moved to amend H.F. No. 1 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1, and insert the language after the enacting clause, and the title, of S.F. No. 2273, the third engrossment.

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Senator Johnson, D.E. imposed a call of the Senate for the balance of the proceedings on H.F. No. 1. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 1 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 61 and nays 1, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

LeClair

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

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 2278 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2278: A bill for an act relating to state government; modifying licensing fees; expanding health care program eligibility; enacting health care cost containment measures; modifying mental and chemical health programs; adjusting family support programs; reducing certain parental fees; providing a cost-of-living adjustment for certain human services program employees; modifying long-term care programs; modifying continuing care programs; allowing penalties; appropriating money; amending Minnesota Statutes 2004, sections 62A.65, subdivision 3; 62D.12, subdivision 19; 62J.04, subdivision 3, by adding a subdivision; 62J.041; 62J.301, subdivision 3; 62J.38; 62J.692, subdivision 3; 62L.08, subdivision 8; 62M.06, subdivisions 2, 3; 62Q.37, subdivision 7; 103I.101, subdivision 6; 103I.208, subdivisions 1, 2; 103I.235, subdivision 1; 103I.601, subdivision 2; 119B.011, by adding a subdivision; 119B.05, subdivision 1; 144.122; 144.147, subdivisions 1, 2; 144.148, subdivision 1; 144.1483; 144.1501, subdivisions 1, 2, 3, 4; 144.226, subdivision 1, by adding subdivisions; 144.3831, subdivision 1; 144.551, subdivision 1; 144.562, subdivision 2; 144.9504, subdivision 2; 144.98, subdivision 3; 144A.073, subdivision 10, by adding a subdivision; 144E.101, by adding a subdivision; 145.9268; 157.15, by adding a subdivision; 157.16, subdivisions 2, 3, by adding subdivisions; 157.20, subdivisions 2, 2a; 241.01, by adding a subdivision; 244.054; 245.4661, by adding subdivisions; 245.4874; 245.4885, subdivisions 1, 2, by adding a subdivision; 252.27, subdivision 2a; 252.291, by adding a subdivision; 254B.03, subdivision 4; 256.01, by adding a subdivision; 256.045, subdivisions 3, 3a; 256.741, subdivision 4; 256.9365; 256.969, by adding a subdivision; 256B.02, subdivision 12; 256B.04, by adding a subdivision; 256B.055, by adding a subdivision; 256B.056, subdivisions 5, 5a, 5b, 7, by adding subdivisions; 256B.057, subdivision 1; 256B.0621, subdivisions 2, 3, 4, 5, 6, 7; 256B.0622, subdivision 2; 256B.0625, subdivisions 2, 9, 13e, as amended, 13f, 19c, by adding subdivisions; 256B.0627, subdivisions 1, 4, 5, 9, by adding a subdivision; 256B.0916, by adding a subdivision; 256B.15, subdivisions 1, 1a, 2; 256B.19, subdivision 1; 256B.431, by adding subdivisions; 256B.434, subdivision 4, by adding a subdivision; 256B.440, by adding a subdivision; 256B.5012, by adding a subdivision; 256B.69, subdivisions 4, 23; 256D.03, subdivision 4; 256D.045; 256D.44, subdivision 5; 256J.021; 256J.08, subdivision 65; 256J.21, subdivision 2; 256J.521, subdivision 1; 256J.53, subdivision 2; 256J.626, subdivisions 1, 2, 3, 4, 7;

256J.95, subdivisions 3, 9; 256L.01, subdivisions 4, 5; 256L.03, subdivisions 1, 1b, 5; 256L.04, subdivisions 2, 7, by adding subdivisions; 256L.05, subdivisions 3, 3a; 256L.07, subdivisions 1, 3, by adding a subdivision; 256L.12, subdivision 6; 256L.15, subdivisions 2, 3; 295.582; 326.01, by adding a subdivision; 326.37, subdivision 1, by adding a subdivision; 326.38; 326.40, subdivision 1; 326.42, subdivision 2; 514.981, subdivision 6; 524.3-805; 549.02, by adding a subdivision; 549.04; 641.15, subdivision 2; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 62J; 144; 151; 256; 256B; 256J; 256L; 326; 501B; 641; repealing Minnesota Statutes 2004, sections 119B.074; 144.1486; 157.215; 256B.0631; 256J.37, subdivisions 3a, 3b; 256L.035; 326.45; 514.991; 514.992; 514.993; 514.994; 514.995.

Senator Berglin moved to amend S.F. No. 2278 as follows:

Page 27, line 29, delete "(10)" and insert "(9)"

Page 28, line 16, delete "(10)" and insert "(9)"

Page 118, delete line 36

Page 119, delete lines 1 and 2

Page 119, line 14, delete "(a)"

Page 119, delete lines 18 to 20 and insert:

"Subd. 4. [EXPIRATION.] This section shall expire July 1, 2006, or upon the completion of the prior authorization system required under subdivision 1, whichever is earlier."

Page 175, line 23, delete "are"

Page 175, delete lines 24 to 33 and insert "shall be deposited in the health care quality improvement account established under section 256.957."

Page 277, line 45, delete "156.9545" and insert "256.9545"

Page 278, after line 3, insert:

"[TICKET TO WORK.] Effective the day following final enactment, supplemental funding made available by the Centers for Medicare and Medicaid Services under the Ticket to Work Medicaid Infrastructure Grant to support outreach and education activities on Medicare Part D for persons receiving medical assistance for employed persons with disabilities is appropriated to the commissioner for required grant and administrative activities."

Page 281, line 9, delete "\$722,000" and insert "\$1,208,000" and delete "\$2,583,000" and insert "\$3,069,000"

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Senator LeClair imposed a call of the Senate for the balance of the proceedings on S.F. No. 2278. The Sergeant at Arms was instructed to bring in the absent members.

Senator Koering moved to amend S.F. No. 2278 as follows:

Page 119, after line 26, insert:

"Sec. 53. [SOLE-SOURCE MANAGED CARE CONTRACT.]

Notwithstanding Minnesota Statutes, section 256B.692, subdivision 6, the commissioner of human services shall not reject a county-based purchasing health plan proposal that requires county-based purchasing on a sole-source basis if the implementation of the sole-source purchasing proposal does not limit an enrollee's provider choice or access to services. The commissioner shall request federal approval, if necessary, to permit or maintain a sole-source purchasing option even if choice is available in the area."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Wergin moved to amend S.F. No. 2278 as follows:

Page 136, after line 18, insert:

"Sec. 10. [62J.84] [HOSPITAL CHARGE DISCLOSURE.]

The Minnesota Hospital Association shall develop a Web-based system, available to the public free of charge, for reporting charge information, including, but not limited to, number of discharges, average length of stay, average charge, average charge per day, and median charge, for each of the 50 most common inpatient diagnosis-related groups and the 25 most common outpatient surgical procedures as specified by the Minnesota Hospital Association. The Web site must provide information that compares hospital-specific data to hospital statewide data. The Web site must be established by October 1, 2006, and must be updated annually. If a hospital does not provide this information to the Minnesota Hospital Association, the commissioner may require the hospital to do so. The commissioner shall provide a link to this information on the department's Web site."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Larson moved to amend S.F. No. 2278 as follows:

Page 28, lines 18 and 25, after "home" insert "or that owned a nursing home located in the same municipality as of May 1, 2005"

Page 28, line 22, after "home" insert "or that owned a nursing home located in the same municipality as of May 1, 2005,"

The motion prevailed. So the amendment was adopted.

Senator Kiscaden moved to amend S.F. No. 2278 as follows:

Page 263, after line 6, insert:

"Sec. 4. Minnesota Statutes 2004, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall carry out the specific duties in paragraphs (a) through (aa) (bb):

(a) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate

distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(2) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(5) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(b) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(c) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the State Board of Control.

(d) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(e) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(f) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(j) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(k) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(l) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(1) the secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity; and

(2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

(m) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(n) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(1) one-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp

administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due; and

(2) notwithstanding the provisions of clause (1), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in clause (1), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to clause (1).

(o) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(p) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(q) Have the authority to establish and enforce the following county reporting requirements:

(1) the commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced;

(2) the county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner;

(3) if the required reports are not received by the deadlines established in clause (2), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received;

(4) a county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance;

(5) the final deadline for fiscal reports or amendments to fiscal reports is one year after the date

the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period;

(6) the commissioner may not delay payments, withhold funds, or require repayment under clause (3) or (5) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under clause (3) or (5), the county board may appeal the action according to sections 14.57 to 14.69; and

(7) counties subject to withholding of funds under clause (3) or forfeiture or repayment of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under clause (3) or (5).

(r) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(s) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(t) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(u) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(v) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

(w) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13.

(x) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs

necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

(y) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(z) Designate community information and referral call centers and incorporate cost reimbursement claims from the designated community information and referral call centers into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Existing information and referral centers provided by Greater Twin Cities United Way or existing call centers for which Greater Twin Cities United Way has legal authority to represent, shall be included in these designations upon review by the commissioner and assurance that these services are accredited and in compliance with national standards. Any reimbursement is appropriated to the commissioner and all designated information and referral centers shall receive payments according to normal department schedules established by the commissioner upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

(aa) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

(bb) Authorize the method of payment to or from the department as part of the human services programs administered by the department. This authorization includes the receipt or disbursement of funds held by the department in a fiduciary capacity as part of the human services programs administered by the department."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Kiscaden moved to amend S.F. No. 2278 as follows:

Page 60, after line 29, insert:

"Sec. 2. Minnesota Statutes 2004, section 62J.43, is amended to read:

62J.43 [BEST PRACTICES EVIDENCE-BASED HEALTH CARE GUIDELINES AND QUALITY IMPROVEMENT.]

(a) Subdivision 1. [ADOPTION OF BEST PRACTICES EVIDENCE-BASED HEALTH CARE GUIDELINES.] To improve quality and reduce health care costs, state agencies shall encourage the adoption use of best practice evidence-based health care guidelines and participation in best practices quality of care measurement activities by physicians medical groups, hospitals, other health care providers, and health plan companies. The commissioner of health shall facilitate access to best practice evidence-based health care guidelines and quality of care measurement information to for providers, purchasers, and consumers by:

~~(1) identifying and promoting local community-based, physician-designed best practices care evidence-based health care guidelines across the Minnesota health care system using local community-based, physician-designed guidelines whenever they are available and meet the criteria set forth in subdivision 2;~~

~~(2) disseminating information available to the commissioner on adherence to best practices care by physicians the performance of Minnesota medical groups, hospitals, and other health care providers in Minnesota in providing care in accordance with evidence-based health care guidelines;~~

~~(3) educating consumers and purchasers on how to effectively use this information effectively in choosing their providers and in making purchasing decisions; and~~

~~(4) making best practices evidence-based health care guidelines and quality of care measurement information available to enrollees and program participants through the Department of Health's Web site. The commissioner may convene an advisory committee to ensure that the Web site is designed to provide user friendly and easy accessibility.~~

~~(b) The commissioner of health shall collaborate with a nonprofit Minnesota quality improvement organization specializing in best practices and quality of care measurements to provide best practices criteria and assist in the collection of the data.~~

~~(e) Subd. 2. [CRITERIA FOR EVIDENCE-BASED HEALTH CARE GUIDELINES.] Guidelines identified under this section must meet the following criteria:~~

~~(1) the scope and intended use of the guideline are clearly stated;~~

~~(2) the authors are listed and any conflicts of interest are disclosed;~~

~~(3) the authors represent all pertinent clinical fields or other means of input have been used for pertinent clinical fields not represented among the authors;~~

~~(4) the development process is explicitly stated;~~

~~(5) the guideline is grounded in evidence;~~

~~(6) the evidence is cited and graded with respect to its strength;~~

~~(7) the document itself is clear and practical;~~

~~(8) the document is flexible in use, with exceptions noted or provided for with general statements;~~

~~(9) measures are included for use in systems improvement pursued to improve the likelihood that health care will be provided in accordance with the guideline; and~~

~~(10) the document provides for scheduled reviews and updating.~~

~~Subd. 3. [IDENTIFICATION OF EVIDENCE-BASED HEALTH CARE GUIDELINES.] In order to identify evidence-based guidelines for promotion under this section, the commissioner of health shall collaborate with a nonprofit Minnesota quality improvement organization that specializes in producing guidelines and using them to improve health care. The guidelines identified may be ones produced by that organization or ones produced by other nonprofit Minnesota or national organizations, provided that the guidelines fulfill the criteria set forth in subdivision 2.~~

~~Subd. 4. [INITIAL EVIDENCE-BASED HEALTH CARE GUIDELINES.] The initial best practices and quality of care measurement criteria-developed topics of the evidence-based health care guidelines initially identified and promoted shall include asthma, diabetes, and at least two other preventive health measures. Hypertension and coronary artery disease shall be included within one year following availability hypertension, coronary artery disease, depression, preventive services, acute myocardial infarction, heart failure, pneumonia, and surgical infections. The guidelines on these topics shall be identified and promotion begun by December 15, 2005.~~

~~(d) The commissioners of human services and employee relations may use the data to make decisions about contracts they enter into with health plan companies.~~

~~(e) Subd. 5. [LIMITATIONS.] This section does not apply if the best practices evidence-based health care guidelines authorize or recommend denial of treatment, food, or fluids necessary to sustain life on the basis of the patient's age or expected length of life or the patient's present or predicted disability, degree of medical dependency, or quality of life.~~

~~(f) The commissioner of health, human services, and employee relations shall report to the legislature by January 15, 2005, on the status of best practices and quality of care initiatives, and shall present recommendations to the legislature on any statutory changes needed to increase the effectiveness of these initiatives.~~

~~(g) This section expires June 30, 2006."~~

Page 61, line 10, after "evidence-based" insert "health"

Page 61, line 14, before the period, insert "provided that the guidelines meet the criteria set forth in section 62J.43, subdivision 2"

Page 62, line 22, after "evidence-based" insert "health"

Page 62, line 26, before the period, insert "provided that the guidelines meet the criteria set forth in section 62J.43, subdivision 2"

Page 67, line 4, delete "criteria or" and insert "health care" and after "guidelines" insert "that meet the criteria set forth in section 62J.43, subdivision 2,"

Page 90, line 14, after "guidelines" insert "and that meet the criteria set forth in section 62J.43, subdivision 2"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 39 and nays 28, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

| | | | | |
|-----------|---------------|----------|----------|--------|
| Bachmann | Hann | LeClair | Olson | Rosen |
| Belanger | Johnson, D.J. | Limmer | Ortman | Ruud |
| Day | Jungbauer | McGinn | Ourada | Senjem |
| Fischbach | Kleis | Michel | Pariseau | Wergin |
| Gaither | Koering | Neuville | Reiter | |
| Gerlach | Larson | Nienow | Robling | |

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend S.F. No. 2278 as follows:

Page 118, line 1, delete "all other applicable"

Page 118, delete lines 2 to 4

Page 118, line 5, delete everything before "Minnesota"

Page 118, line 6, delete the second "and"

Page 118, line 7, delete "federal"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 33, as follows:

Those who voted in the affirmative were:

| | | | | |
|--------------|---------------|----------|----------|--------|
| Bachmann | Gaither | Kubly | Neuville | Rosen |
| Belanger | Gerlach | Langseth | Nienow | Ruud |
| Day | Hann | Larson | Olson | Senjem |
| Dille | Johnson, D.J. | LeClair | Ortman | Wergin |
| Fischbach | Jungbauer | Limmer | Ourada | |
| Foley | Kierlin | McGinn | Pariseau | |
| Frederickson | Kleis | Michel | Robling | |

Those who voted in the negative were:

| | | | | |
|-----------|---------------|------------|----------|-----------|
| Anderson | Higgins | Marko | Ranum | Sparks |
| Bakk | Hottinger | Marty | Rest | Stumpf |
| Berglin | Johnson, D.E. | Metzen | Sams | Tomassoni |
| Betzold | Kelley | Moua | Saxhaug | Vickerman |
| Chaudhary | Kiscaden | Murphy | Skoe | Wiger |
| Cohen | Koering | Pappas | Skoglund | |
| Dibble | Lourey | Pogemiller | Solon | |

The motion did not prevail. So the amendment was not adopted.

Senator Dille moved to amend S.F. No. 2278 as follows:

Page 41, after line 21, insert:

"Sec. 33. [145.906] [POSTPARTUM DEPRESSION EDUCATION AND INFORMATION.]

(a) The commissioner of health shall work with health care facilities, licensed health and mental health care professionals, mental health advocates, consumers, and families in the state to develop materials and information about postpartum depression, including treatment resources, and develop policies and procedures to comply with this section.

(b) Physicians, traditional midwives, and other licensed health care professionals providing prenatal care to women must have available to women and their families information about postpartum depression.

(c) Hospitals and other health care facilities in the state must provide departing new mothers and fathers and other family members, as appropriate, with written information about postpartum depression, including its symptoms, methods of coping with the illness, and treatment resources."

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

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Ortman moved to amend S.F. No. 2278 as follows:

Page 58, delete section 51

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

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 38, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|---------------|---------|----------|----------|
| Bachmann | Hann | Larson | Murphy | Pariseau |
| Berglin | Johnson, D.J. | LeClair | Neuville | Robling |
| Day | Jungbauer | Limmer | Nienow | Rosen |
| Fischbach | Kierlin | McGinn | Olson | Ruud |
| Gerlach | Kleis | Michel | Ortman | Wergin |

Those who voted in the negative were:

| | | | | |
|-----------|---------------|------------|----------|-----------|
| Anderson | Frederickson | Langseth | Ranum | Solon |
| Bakk | Higgins | Lourey | Rest | Sparks |
| Betzold | Hottinger | Marko | Sams | Stumpf |
| Chaudhary | Johnson, D.E. | Marty | Saxhaug | Tomassoni |
| Cohen | Kelley | Metzen | Scheid | Vickerman |
| Dibble | Kiscaden | Moua | Senjem | Wiger |
| Dille | Koering | Pappas | Skoe | |
| Foley | Kubly | Pogemiller | Skoglund | |

The motion did not prevail. So the amendment was not adopted.

Senator LeClair moved to amend S.F. No. 2278 as follows:

Pages 114 to 116, delete section 47

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 35, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|---------------|---------|----------|---------|
| Bachmann | Gerlach | Kleis | Neuville | Robling |
| Bakk | Hann | Larson | Nienow | Rosen |
| Belanger | Johnson, D.J. | LeClair | Olson | Ruud |
| Day | Jungbauer | Limmer | Ortman | Senjem |
| Fischbach | Kierlin | McGinn | Pariseau | Wergin |
| Gaither | Kiscaden | Michel | Reiter | |

Those who voted in the negative were:

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

The motion did not prevail. So the amendment was not adopted.

Senator Berglin moved to amend S.F. No. 2278 as follows:

Pages 135 and 136, delete section 9

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Nienow moved to amend S.F. No. 2278 as follows:

Page 263, after line 6, insert:

"Sec. 4. Minnesota Statutes 2004, section 256.01, is amended by adding a subdivision to read:

Subd. 23. [ANNUAL REPORT.] Beginning July 1, 2005, the commissioner, in cooperation with county social service agencies, shall collect data detailing the city, state, and country where all new applicants of the following programs have resided during the previous 12 months:

- (1) medical assistance under chapter 256B;
- (2) general assistance medical care under chapter 256D;
- (3) general assistance under chapter 256D;
- (4) MFIP under chapter 256J;
- (5) food support under chapter 256D;
- (6) Minnesota supplemental aid under chapter 256D; and
- (7) subsidized housing under chapter 462A.

The commissioner shall annually report this residency information to the legislature beginning on October 1, 2006, and each October 1 thereafter. Each annual report shall provide summary information on applicant residency for the 12-month time period ending on June 30 of the reporting year.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to new applications submitted on or after July 1, 2005."

Page 267, after line 31, insert:

"Sec. 9. Minnesota Statutes 2004, section 462A.07, is amended by adding a subdivision to read:

Subd. 17. [DATA PROVIDED TO COMMISSIONER OF HUMAN SERVICES.] The commissioner must collect and provide summary data to the commissioner of human services sufficient to fulfill the requirements of section 256.01, subdivision 23.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 35, as follows:

Those who voted in the affirmative were:

| | | | | |
|--------------|---------------|---------|----------|---------|
| Bachmann | Gaither | Kleis | Murphy | Robling |
| Belanger | Gerlach | Larson | Neuville | Rosen |
| Day | Hann | LeClair | Nienow | Ruud |
| Dille | Johnson, D.J. | Limmer | Olson | Senjem |
| Fischbach | Jungbauer | McGinn | Ortman | Sparks |
| Frederickson | Kierlin | Michel | Reiter | Wergin |

Those who voted in the negative were:

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

The motion did not prevail. So the amendment was not adopted.

Senator Higgins moved to amend S.F. No. 2278 as follows:

Page 89, after line 29, insert:

"Sec. 23. Minnesota Statutes 2004, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile.

The commissioner may use an order by the recipient's attending physician to certify that the recipient requires special transportation services. Special transportation includes driver-assisted service to eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. Special transportation providers must obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation providers must take recipients to the nearest appropriate health care provider, using the most direct route available. The maximum medical assistance reimbursement rates for special transportation services are:

(1) ~~\$18~~ \$17 for the base rate and ~~\$1.40~~ \$1.35 per mile for services to eligible persons who need a wheelchair-accessible van;

(2) ~~\$12~~ \$11.50 for the base rate and ~~\$1.35~~ \$1.30 per mile for services to eligible persons who do not need a wheelchair-accessible van; and

(3) ~~\$36~~ \$60 for the base rate and ~~\$1.40~~ \$2.40 per mile, and an attendant rate of \$9 per trip, for services to eligible persons who need a stretcher-accessible vehicle."

Page 116, after line 33, insert:

"Sec. 51. Laws 2003, First Special Session chapter 14, article 12, section 93, is amended to read:

Sec. 93. [REVIEW OF SPECIAL TRANSPORTATION ELIGIBILITY CRITERIA AND POTENTIAL COST SAVINGS.]

The commissioner of human services, in consultation with the commissioner of transportation and special transportation service providers, shall review eligibility criteria for medical assistance special transportation services and shall evaluate whether the level of special transportation services provided should be based on the degree of impairment of the client, as well as the medical diagnosis. The commissioner shall also evaluate methods for reducing the cost of special transportation services, including, but not limited to:

(1) requiring providers to maintain a daily log book confirming delivery of clients to medical facilities;

(2) requiring providers to implement commercially available computer mapping programs to calculate mileage for purposes of reimbursement;

(3) restricting special transportation service from being provided solely for trips to pharmacies;

(4) modifying eligibility for special transportation;

- (5) expanding alternatives to the use of special transportation services;
- (6) improving the process of certifying persons as eligible for special transportation services; and
- (7) examining the feasibility and benefits of licensing special transportation providers.

The commissioner shall present recommendations for changes in the eligibility criteria and potential cost-savings for special transportation services to the chairs and ranking minority members of the house and senate committees having jurisdiction over health and human services spending by January 15, 2004. The commissioner is prohibited from using a broker or coordinator to manage special transportation services until July 1, 2005 2006, except for the purposes of checking for recipient eligibility, authorizing recipients for appropriate level of transportation, and monitoring provider compliance with Minnesota Statutes, section 256B.0625, subdivision 17. This prohibition does not apply to the purchase or management of common carrier transportation.

Sec. 52. [ADVISORY COMMITTEE ON NONEMERGENCY TRANSPORTATION SERVICES.]

The commissioner of human services may establish a seven-member advisory committee on medical assistance nonemergency transportation services. The committee may consist of: a representative of the commissioner of human services, who may serve as chair; two special transportation service providers, appointed by the trade associations representing special transportation service providers; two representatives of nursing facilities, one appointed by the Minnesota Health and Housing Alliance and the other appointed by Care Providers of Minnesota; and one house of representatives and one senate member, appointed respectively by the chairs of the house of representatives and senate committees with jurisdiction over medical assistance funding. The advisory committee may monitor and evaluate the provision of medical assistance nonemergency medical transportation services, and present recommendations for any necessary changes to the commissioner."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Higgins moved to amend the Higgins amendment to S.F. No. 2278 as follows:

Page 1, line 34, delete "\$17" and insert "\$16.50"

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the adoption of the Higgins amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Senator Lourey moved to amend S.F. No. 2278 as follows:

Page 169, line 2, strike "and"

Page 169, line 26, before the period, insert "; and"

(7) no action shall be taken to enforce or collect any lien arising under this section or under sections 514.980 to 514.985 and sections 514.991 to 514.995 with respect to a homestead owned of record, on the date the recipient dies, by the recipient and a joint tenant with a right of survivorship, until the joint tenant sells the homestead, ceases to reside in the homestead, or dies. Homestead means the real property occupied by the surviving joint tenant as the sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and the surviving joint tenant purchase solely with the proceeds from the sale of the prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to

the recipient and the surviving joint tenant as homestead property in the calendar year in which the recipient dies. The surviving joint tenant, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states. The estate, any owner of an interest in the property that is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. Such payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient, and neither the process of settling the claim, the payment of the claim, or the acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this section"

Page 186, line 9, after "(8)" insert "No action shall be taken to enforce or collect any lien arising under section 256B.15 or under sections 514.980 to 514.985 and sections 514.991 to 514.995 with respect to a homestead owned of record, on the date the recipient dies, by the recipient and a joint tenant with a right of survivorship, until the joint tenant sells the homestead, ceases to reside in the homestead, or dies. Homestead means the real property occupied by the surviving joint tenant as the sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and the surviving joint tenant purchase solely with the proceeds from the sale of the prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and the surviving joint tenant as homestead property in the calendar year in which the recipient dies. The surviving joint tenant, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states. The estate, any owner of an interest in the property that is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. Such payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient, and neither the process of settling the claim, the payment of the claim, or the acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this section.

(9)"

Page 186, line 9, strike "(7)" and insert "(8)"

The motion prevailed. So the amendment was adopted.

Senator Gerlach moved to amend S.F. No. 2278 as follows:

Page 238, after line 34, insert:

"Sec. 8. Minnesota Statutes 2004, section 256J.39, is amended by adding a subdivision to read:

Subd. 1a. [PROHIBITED PURCHASES.] MFIP recipients are prohibited from using MFIP monthly cash assistance payments issued in the form of an electronic benefits transfer to purchase tobacco products or alcohol."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 61 and nays 2, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Lourey Moua

The motion prevailed. So the amendment was adopted.

Senator Neuville moved to amend S.F. No. 2278 as follows:

Page 138, after line 16, insert:

"Sec. 3. [144A.80] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions in this section apply to section 144A.81.

Subd. 2. [LONG-TERM CARE PROVIDER.] "Long-term care provider" means:

(1) a person licensed as a boarding care home under sections 144.56 and 144A.02 to 144A.08;

(2) a person that furnishes continuing care within the meaning of section 80D.02, subdivision 2;

(3) a person that provides home care services as defined in section 144A.43;

(4) a hospice provider as defined by section 144A.75, subdivision 5;

(5) a housing with services establishment as defined by section 144D.01, subdivision 4;

(6) a nursing home as defined by section 144A.01, subdivision 5; or

(7) a person that owns or operates elderly assisted living facility property as defined in section 273.13, subdivision 25a.

Subd. 3. [CONSUMER.] "Consumer" means a recipient of goods or services from a long-term care provider, or the recipient's agents, assigns, successors, heirs, or third-party beneficiaries.

Subd. 4. [NONECONOMIC DAMAGES.] "Noneconomic damages" means subjective, nonpecuniary damages arising from death, disfigurement, pain, suffering, inconvenience, mental anguish, worry, emotional distress, loss of society or companionship, loss of consortium, bystander injury, physical impairment, injury to reputation, humiliation, embarrassment, loss of the enjoyment of life, hedonic damages, other nonpecuniary damages, and any similar kinds of damages, such as fear of loss, illness, or injury. Noneconomic damages does not include economic damages.

Subd. 5. [ECONOMIC DAMAGES.] "Economic damages" means objectively verifiable pecuniary damages arising from medical expenses and medical care, rehabilitation services, custodial care, disabilities, loss of earnings and earning capacity, loss of income, loss of use of property, cost of repair or replacement of property, cost of obtaining substitute domestic services, loss of employment, loss of business opportunities, burial costs, and other objectively verifiable monetary losses.

Sec. 4. [144A.81] [DAMAGE LIMITATION.]

(a) In an action by a consumer against a long-term care provider that arises out of the care or treatment of, or provision of other services to, the consumer, the amount of noneconomic damages awarded against the long-term provider may not exceed the dollar limits provided for total damages against a municipality under section 466.04.

(b) The limitation on noneconomic damages in paragraph (a) does not apply unless the long-term care provider has insurance against liability for the type of claim described in paragraph (a), and the insurance has limits on total liability coverage for that type of claim that are at least as high as the dollar limits for total liability provided in section 466.04.

(c) This section does not apply if the long-term care provider was grossly negligent or intended to cause the harm."

Page 193, after line 22, insert:

"Sec. 39. [EFFECT OF EXCESS LIABILITY INSURANCE.]

Notwithstanding Minnesota Statutes, section 144A.81, if the long-term care provider has insurance coverage in excess of the liability limits under Minnesota Statutes, section 466.04, the procurement of that insurance constitutes a waiver of those limits but only to the extent that valid and collectible insurance exceeds those limits and covers a claim. The purchase of excess insurance has no other effect on the liability of the long-term care provider."

Page 194, after line 2, insert:

"Sec. 42. [EFFECTIVE DATE; APPLICATION.]

Sections 3, 4, and 39 are effective the day following final enactment and apply to claims for liability arising from incidents occurring on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Betzold questioned whether the amendment was germane.

The President ruled that the amendment was germane.

The question was taken on the adoption of the Neuville amendment.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

The motion did not prevail. So the amendment was not adopted.

S.F. No. 2278 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 38 and nays 29, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|---------------|----------|------------|-----------|
| Anderson | Fischbach | Kiscaden | Murphy | Solon |
| Bakk | Foley | Koering | Pappas | Sparks |
| Berglin | Frederickson | Kubly | Pogemiller | Stumpf |
| Betzold | Higgins | Langseth | Ranum | Tomassoni |
| Chaudhary | Hottinger | Lourey | Sams | Vickerman |
| Cohen | Johnson, D.E. | Marty | Saxhaug | Wiger |
| Dibble | Kelley | Metzen | Skoe | |
| Dille | Kierlin | Moua | Skoglund | |

Those who voted in the negative were:

| | | | | |
|----------|---------------|----------|----------|--------|
| Bachmann | Johnson, D.J. | Marko | Ortman | Rosen |
| Belanger | Jungbauer | McGinn | Ourada | Ruud |
| Day | Kleis | Michel | Pariseau | Scheid |
| Gaither | Larson | Neuville | Reiter | Senjem |
| Gerlach | LeClair | Nienow | Rest | Wergin |
| Hann | Limmer | Olson | Robling | |

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

Senator Berglin moved that S.F. No. 2278 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Johnson, D.E. moved that H.F. No. 1422 be taken from the table. The motion prevailed.

H.F. No. 1422: A bill for an act relating to the operation of state government; making changes to health and human services programs; changing licensing and state-operated services provisions; changing provisions in state health care programs, changing MinnesotaCare to a forecasted program and changing eligibility requirements and payments, allowing transfer of excess health care access funds to the general fund, allowing the commissioner to withhold for delinquent nursing home provider surcharges, allowing reduction of excess assets for MA and changing other MA provisions, reducing payments to managed care plans, establishing medical necessity standards for state health care programs, allowing the state to recover payment for long-term care from trusts and life estates or joint tenancy interests, and establishing a health services policy committee and medication therapy management; establishing a value-based nursing facility reimbursement system and changing other provisions for nursing facilities; changing continuing care for the elderly and disabled provisions and establishing the Minnesota partnership for long-term care programs, increasing rate reimbursement for ICF/MR facilities, health care services, and provider rate increases, requiring a study for dental access, establishing an interagency work group on disability services; changing provisions for mental health services, allowing payment for mental health telemedicine, providing treatment foster care services and transitional youth intensive rehabilitative mental health services; modifying health policy, establishing a Health Information Technology and Infrastructure Advisory Committee, establishing a rural pharmacy planning and transition grant program, requiring a report from physicians and facilities performing abortions, classifying data in abortion notification reports, providing education on shaking infants and children, establishing a voluntary trauma system, trauma registry, and trauma advisory council, establishing a cancer drug repository program, prohibiting family grant funds to subsidize abortion services, promoting positive abortion alternatives, establishing the unborn child pain prevention act, providing education on postpartum depression, adjusting certain fees, providing civil and criminal penalties; making forecast adjustments; appropriating money; and providing for alternative funding; amending Minnesota Statutes 2004, sections 13.3806, by adding a subdivision; 16A.724; 103I.101, subdivision 6; 103I.208, subdivisions 1, 2; 103I.235, subdivision 1; 103I.601, subdivision 2; 144.122; 144.147, subdivisions 1, 2; 144.148, subdivision 1; 144.1483; 144.1501, subdivisions 1, 2, 3, 4; 144.226,

subdivisions 1, 4, by adding subdivisions; 144.3831, subdivision 1; 144.551, subdivision 1; 144.562, subdivision 2; 144.9504, subdivision 2; 144.98, subdivision 3; 144A.071, subdivision 4a; 144A.073, by adding a subdivision; 144E.101, by adding a subdivision; 145.56, subdivisions 2, 5; 145.924; 145.9268; 146A.11, subdivision 1; 147A.08; 150A.22; 157.011, by adding a subdivision; 157.15, by adding a subdivision; 157.16, subdivisions 2, 3, by adding subdivisions; 157.20, subdivisions 2, 2a; 214.01, subdivision 2; 214.06, subdivision 1, by adding a subdivision; 245.4661, subdivisions 2, 6; 245.4885, subdivisions 1, 2, by adding a subdivision; 245A.10, subdivision 5; 245C.10, subdivisions 2, 3; 245C.32, subdivision 2; 246.0136, subdivision 1; 252.27, subdivision 2a; 253.20; 253B.02, subdivision 7; 256.01, subdivision 2, by adding subdivisions; 256.019, subdivision 1; 256.045, subdivisions 3, 3a; 256.046, subdivision 1; 256.9657, by adding a subdivision; 256.969, subdivisions 3a, 26; 256B.02, subdivision 12; 256B.04, by adding a subdivision; 256B.056, subdivisions 5, 5a, 5b, 7, by adding subdivisions; 256B.057, subdivision 9; 256B.0575; 256B.0595, subdivision 2; 256B.06, subdivision 4; 256B.0621, subdivisions 2, 3, 4, 5, 6, 7, by adding a subdivision; 256B.0625, subdivisions 2, 3a, 13, 13a, 13c, 13e, 13f, 17, by adding subdivisions; 256B.0644; 256B.075, subdivision 2; 256B.0913, subdivisions 2, 4; 256B.0916, by adding a subdivision; 256B.0943, subdivision 3; 256B.095; 256B.0951, subdivision 1; 256B.0952, subdivision 5; 256B.0953, subdivision 1; 256B.15, subdivision 1; 256B.19, subdivision 1; 256B.195, subdivision 3; 256B.32, subdivision 1; 256B.431, subdivisions 28, 29, 35, by adding subdivisions; 256B.432, subdivisions 1, 2, 5, by adding subdivisions; 256B.434, subdivisions 3, 4, 4a, 4b, 4c, 4d, by adding subdivisions; 256B.438, subdivision 3; 256B.47, subdivision 2; 256B.49, subdivision 16; 256B.5012, by adding a subdivision; 256B.69, subdivisions 4, 23, by adding a subdivision; 256B.75; 256B.765; 256D.03, subdivisions 3, 4, by adding subdivisions; 256D.045; 256L.01, subdivisions 1a, 4, 5; 256L.03, subdivisions 1, 3, 5, by adding a subdivision; 256L.04, subdivisions 1, 2, 8, by adding subdivisions; 256L.05, subdivisions 2, 3, 3a, 5; 256L.06, subdivision 3; 256L.07, subdivisions 1, 3, by adding a subdivision; 256L.09, subdivision 2; 256L.11, subdivision 6; 256L.12, subdivision 6, by adding a subdivision; 256L.15, subdivisions 2, 3; 326.42, subdivision 2; 471.61, by adding a subdivision; 514.981, subdivision 6; Laws 2003, First Special Session chapter 14, article 12, section 93; proposing coding for new law in Minnesota Statutes, chapters 62J; 144; 145; 245A; 256B; 501B; repealing Minnesota Statutes 2004, sections 13.383, subdivision 3; 13.411, subdivision 3; 144.1486; 144.1502; 145.925; 146A.01, subdivisions 2, 5; 146A.02; 146A.03; 146A.04; 146A.05; 146A.06; 146A.07; 146A.08; 146A.09; 146A.10; 157.215; 256.955; 256B.075, subdivision 5; 256L.035; 256L.04, subdivisions 7, 11; 256L.09, subdivisions 1, 4, 5, 6, 7; 295.581; Minnesota Rules, parts 4700.1900; 4700.2000; 4700.2100; 4700.2200; 4700.2210; 4700.2300; 4700.2400; 4700.2410; 4700.2420; 4700.2500.

SUSPENSION OF RULES

Senator Johnson, D.E. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1422 and that the rules of the Senate be so far suspended as to give H.F. No. 1422 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1422 was read the second time.

Senator Berglin moved to amend H.F. No. 1422 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1422, and insert the language after the enacting clause, and the title, of S.F. No. 2278, as amended by the Senate May 4, 2005.

The motion prevailed. So the amendment was adopted.

H.F. No. 1422 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 38 and nays 29, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|---------------|----------|------------|-----------|
| Anderson | Fischbach | Kiscaden | Murphy | Solon |
| Bakk | Foley | Koering | Pappas | Sparks |
| Berglin | Frederickson | Kubly | Pogemiller | Stumpf |
| Betzold | Higgins | Langseth | Ranum | Tomassoni |
| Chaudhary | Hottinger | Lourey | Sams | Vickerman |
| Cohen | Johnson, D.E. | Marty | Saxhaug | Wiger |
| Dibble | Kelley | Metzen | Skoe | |
| Dille | Kierlin | Moua | Skoglund | |

Those who voted in the negative were:

| | | | | |
|----------|---------------|----------|----------|--------|
| Bachmann | Johnson, D.J. | Marko | Ortman | Rosen |
| Belanger | Jungbauer | McGinn | Ourada | Ruud |
| Day | Kleis | Michel | Pariseau | Scheid |
| Gaither | Larson | Neuville | Reiter | Senjem |
| Gerlach | LeClair | Nienow | Rest | Wergin |
| Hann | Limmer | Olson | Robling | |

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

REPORTS OF COMMITTEES

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

Senator Johnson, D.E. from the Committee on Rules and Administration, to which was referred under Rule 21, together with the committee report thereon,

S.F. No. 1298: A bill for an act relating to environment; enacting the Minnesota Electronics Recycling Act of 2005; authorizing rulemaking; providing penalties; amending Minnesota Statutes 2004, section 16C.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116F.

Reports the same back with the recommendation that the report from the Committee on State and Local Government Operations, shown in the Journal for April 21, 2005, be adopted; that committee recommendation being:

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

Senator Johnson, D.E. from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 2259: A bill for an act relating to public safety; reenacting the Minnesota Citizens' Personal Protection Act of 2003; recognizing the inherent right of law-abiding citizens to self-protection through the lawful use of self-defense; providing a system under which responsible, competent adults can exercise their right to self-protection by authorizing them to obtain a permit to carry a pistol; providing criminal penalties; amending Minnesota Statutes 2004, section 624.714, subdivision 17, as reenacted.

Reports the same back with the recommendation that the report from the Committee on Crime Prevention and Public Safety, shown in the Journal for May 2, 2005, be amended to read:

"the bill be amended and when so amended the bill be given its second reading and placed on General Orders without recommendation". Amendments adopted. Report adopted.

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

S.F. No. 834: A resolution memorializing Congress to oppose the Central American Free Trade Agreement.

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

Page 2, line 21, delete the second "the"

Page 2, delete line 22

Page 2, line 23, delete everything before the first "and"

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

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

Senate Resolution No. 92: A Senate resolution recognizing May 5, 2005, as a Day of Prayer in Minnesota.

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

Senator Johnson, D.E. moved that Senate Resolution No. 92 be laid on the table. The motion prevailed.

Senator Johnson, D.E. from the Committee on Rules and Administration, to which was referred under Rule 21, together with the committee report thereon,

S.F. No. 631: A bill for an act relating to civil actions; prohibiting actions against certain persons for weight gain as a result of consuming certain foods; proposing coding for new law in Minnesota Statutes, chapter 604.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for April 21, 2005, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

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

S.F. No. 2267: A bill for an act relating to education; providing for prekindergarten through grade 12 education including general education; education excellence; special programs; technology, facilities, and accounting; nutrition; state agencies; technical and conforming amendments; authorizing rulemaking; providing for reports; appropriating money; amending Minnesota Statutes 2004, sections 13.321, by adding a subdivision; 120A.05, by adding a subdivision; 120B.02; 120B.021, subdivision 1, by adding a subdivision; 120B.024; 120B.11, subdivisions 1, 2, 3, 4, 5, 8; 120B.22, subdivision 1; 120B.30, subdivisions 1, 1a, by adding a subdivision; 120B.31, subdivision 4; 121A.06, subdivisions 2, 3; 121A.41, subdivision 10; 121A.53; 121A.66, subdivision 5, by adding subdivisions; 121A.67; 122A.06, subdivision 4; 122A.12, subdivision 2; 122A.15, by adding a subdivision; 122A.18, subdivision 2a; 122A.40, subdivision 5; 122A.41, subdivisions 2, 5a, 14; 122A.413; 122A.60, subdivision 1, by adding subdivisions; 122A.61, subdivision 1; 123A.05, subdivision 2; 123B.02, by adding subdivisions; 123B.04, subdivisions 1, 2; 123B.42, by adding a subdivision; 123B.49, subdivision 4; 123B.492;

123B.53, subdivisions 1, 4, by adding a subdivision; 123B.54, as amended; 123B.55; 123B.75, by adding a subdivision; 123B.76, subdivision 3; 123B.79, subdivision 6; 123B.81, subdivision 1; 123B.82; 123B.83, subdivision 2; 123B.88, by adding a subdivision; 123B.92, subdivisions 1, 5; 124D.081; 124D.09, subdivision 12; 124D.095, subdivisions 2, 4, 8, by adding a subdivision; 124D.10, subdivision 8; 124D.11, subdivisions 1, 2, 5, 6; 124D.111, subdivision 1; 124D.118, subdivision 4; 124D.40; 124D.59, subdivision 2; 124D.66, subdivision 3; 124D.68, subdivision 9; 124D.69, subdivision 1; 124D.74, subdivision 1; 124D.81, subdivision 1; 124D.84, subdivision 1; 125A.11, subdivision 1; 125A.24; 125A.28; 125A.51; 125A.76, subdivisions 1, 3, 4; 125A.79, subdivisions 1, 6; 126C.01, subdivision 11; 126C.05, by adding subdivisions; 126C.10, subdivisions 1, 2, 13, 13a, 13b, 18, 24, 29, 30, 31, 32, 33; 126C.13, subdivision 4, by adding subdivisions; 126C.17, subdivisions 1, 2, 5, 9, 11, 13; 126C.21, subdivision 4; 126C.40, subdivision 1; 126C.457; 126C.48, subdivisions 2, 8; 126C.63, subdivisions 5, 8; 127A.41, subdivision 8; 127A.45, subdivisions 11, 12; 127A.47, subdivisions 7, 8; 127A.49, subdivisions 2, 3; 128C.12, subdivisions 1, 3; 128D.11, subdivision 9; 134.31, by adding a subdivision; 179A.03, subdivision 14; 260C.201, subdivision 1; 275.14; 275.16; 469.177, subdivision 9; 475.61, subdivision 4; 2005 S.F. No. 1879, article 3, section 3, subdivisions 2, 3, 7, 8, 24, 25, 26, 29, 31, 32, 35, 36, 41, 43, 44, 50, if enacted; 2005 S.F. No. 1879, article 3, section 4, if enacted; 2005 S.F. No. 1879, article 3, section 5, if enacted; Laws 1996, chapter 412, article 5, section 24; Laws 2003, First Special Session chapter 9, article 4, section 29, as amended; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 124D; 125A; 125B; 127A; 129C; repealing Minnesota Statutes 2004, sections 121A.23; 122A.414; 122A.415; 123B.83, subdivision 1; 125A.75, subdivision 8; 126C.10, subdivisions 13a, 13b, 29, 30, 31, 32, 33; 126C.42, subdivisions 1, 4; 126C.44; 128C.12, subdivision 4.

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

Page 21, line 29, delete "plus" and insert "minus"

Page 21, delete lines 30 and 31

Page 21, line 32, delete "(3)" and insert "(2)"

Page 22, delete lines 3 to 11 and insert:

"Subd. 4. [GENERAL EDUCATION AID.] (a) ~~For fiscal year 2004, a district's general education aid is the sum of the following amounts:~~

~~(1) general education revenue;~~

~~(2) shared time aid according to section 126C.01, subdivision 7;~~

~~(3) referendum aid according to section 126C.17; and~~

~~(4) online learning aid according to section 126C.24.~~

(b) For fiscal year years 2005 and later 2006, a district's"

Page 22, line 26, delete "(c)" and insert "(b)"

Page 24, line 1, after "under" insert "Minnesota Statutes 2004,"

Page 88, line 20, strike "PREPAREDNESS"

Page 105, after line 30, insert:

"Sec. 61. 2005 S.F. No. 1879, article 3, section 3, subdivision 27, if enacted, is amended to read:

Subd. 27. [STUDENT ORGANIZATIONS.] For student organizations:

| | | |
|---------------------------------------|-------|-------|
| \$625,000 <u>\$725,000</u> | | 2006 |
| \$625,000 <u>\$725,000</u> | | 2007" |

Pages 145 and 146, delete sections 3 and 4

Pages 147 and 148, delete section 6

Page 154, line 29, after "by" insert "organized"

Page 154, line 33, delete "90 percent of"

Page 154, line 36, before the period, insert "or no reduction if the district is part of an organized telecommunications access cluster. Equity aid must be distributed to the telecommunications access cluster for districts that are members of the cluster or to individual districts and charter schools not part of a telecommunications access cluster"

Page 166, line 9, after the period, insert "Any balance in the first year does not cancel but is available in the second year."

Page 168, line 22, delete "21,511,000" and insert "21,411,000"

Page 168, line 23, delete "22,796,000" and insert "22,696,000"

Page 169, line 13, delete "\$22,904,000" and insert "\$22,804,000"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 25, delete "subdivisions" and insert "subdivision" and delete ", 4, by adding a subdivision"

Page 1, line 26, delete "123B.55;"

Page 2, line 8, after "26," insert "27,"

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

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

S.F. No. 2277: A bill for an act relating to education; providing for early childhood, family, and adult education including early childhood, child care, adult basic education, and prevention policy; providing for a study; providing for reports; appropriating money; amending Minnesota Statutes 2004, sections 13.32, subdivision 2; 119A.46, subdivisions 1, 2, 3, 8; 119B.09, subdivision 1; 119B.13, by adding a subdivision; 121A.17, subdivisions 1, 3, 5, by adding a subdivision; 121A.19; 124D.135, subdivision 1; 124D.15, subdivisions 1, 3, 5, 10, 12, by adding subdivisions; 124D.16, subdivision 2; 124D.22, subdivision 3; 124D.531, subdivisions 1, 4; 2005 S.F. No. 1879, article 2, section 1, subdivisions 2, 3, 4, 5, 10, if enacted; 2005 S.F. No. 1879, article 2, section 2, subdivision 2, if enacted; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2004, sections 124D.15, subdivisions 2, 4, 6, 7, 8, 9, 11, 13; 124D.16, subdivisions 1, 4.

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

Page 20, delete lines 15 and 16 and insert:

| | | | |
|----------------|--------------|-------|-------|
| " \$30,262,000 | \$32,892,000 | | 2006 |
| \$30,262,000 | \$32,928,000 | | 2007" |

Page 20, line 17, delete "\$6,823,000" and insert "\$7,109,000"

Page 22, line 5, delete "funds" and insert "federal money" and delete "shall be" and insert "is"

Page 22, line 6, delete "available" and insert "appropriated"

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

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

S.F. No. 540: A bill for an act relating to human services; authorizing a long-term care partnership program; modifying medical assistance eligibility requirements under certain circumstances; defining approved long-term care insurance policies; limiting medical assistance estate recovery under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 256B.

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

Pages 2 and 3, delete subdivision 10 and insert:

"Subd. 10. [APPROVED POLICIES.] (a) A partnership policy must meet all of the requirements in paragraphs (b) to (e).

(b) A partnership policy must satisfy the requirements of chapter 62S.

(c) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home care. These minimum daily benefit amounts shall be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1). Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.

(d) A partnership policy must offer an elimination period of not more than 100 days for an adjusted premium.

(e) A partnership policy must satisfy the requirements established by the commissioner of human services under subdivision 12."

Page 3, after line 34, insert:

"Subd. 12. [IMPLEMENTATION.] (a) If federal law is amended or a federal waiver is granted to permit implementation of this section, the commissioner, in consultation with the commissioner of commerce, may alter the requirements of subdivision 10, paragraphs (c) and (d), and may establish additional requirements for approved policies in order to conform with federal law or waiver authority. In establishing these requirements, the commissioner shall seek to maximize purchase of qualifying policies by Minnesota residents while controlling medical assistance costs.

(b) The commissioner is authorized to suspend implementation of this section until the next session of the legislature if the commissioner, in consultation with the commissioner of commerce, determines that the federal legislation or federal waiver authorizing a partnership program in Minnesota is likely to impose substantial unforeseen costs on the state budget.

(c) The commissioner must take action under paragraph (a) or (b) within 45 days of final federal action authorizing a partnership policy in Minnesota.

(d) The commissioner must notify the appropriate legislative committees of action taken under this subdivision within 50 days of final federal action authorizing a partnership policy in Minnesota.

(e) The commissioner must publish a notice in the State Register of implementation decisions made under this subdivision as soon as practicable."

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "providing implementation options;"

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

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

H.F. No. 1951: A bill for an act relating to human services; changing long-term care provisions; amending Minnesota Statutes 2004, sections 144A.071, subdivision 1a; 256B.0913, subdivision 8; 256B.0915, subdivisions 1a, 6, 9.

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

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

S.F. No. 538: A bill for an act relating to health; providing for education of parents, primary caregivers, and child care providers on the dangers associated with shaking infants and young children; proposing coding for new law in Minnesota Statutes, chapters 144; 245A.

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

Page 1, line 17, after "hospital" insert "and any interested individuals"

Page 2, line 20, delete "ongoing" and insert "annual"

Page 2, line 23, after "providers" insert "and any interested individuals"

Page 2, after line 26, insert:

"Sec. 3. [APPROPRIATION.]

\$13,000 is appropriated from the state government special revenue fund to the commissioner of health for purposes of sections 1 and 2 for the biennium beginning July 1, 2005. The commissioner of health shall assess a fee to hospitals to cover the cost of the approved shaken baby video and royalties to be deposited in the state government special revenue fund."

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "appropriating money;"

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. 1378: A bill for an act relating to health; modifying medical education funding provisions; amending Minnesota Statutes 2004, section 62J.692, subdivisions 3, 4, 7.

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

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

S.F. No. 917: A bill for an act relating to health; providing for grants related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

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

Delete everything after the enacting clause and insert:

"Section 1. [127A.145] [POSITIVE ABORTION ALTERNATIVES.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, "abortion" means the use of any means to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the unborn child. For purposes of this section, abortion does not include an abortion necessary to prevent the death of the mother.

Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of education shall award grants to eligible applicants under paragraph (c) for the reasonable expenses of alternatives to abortion programs to support, encourage, and assist women in carrying their pregnancies to term and caring for their babies after birth by providing information on, referral to, and assistance with securing necessary services that enable women to carry their pregnancies to term and care for their babies after birth. Necessary services must include, but are not limited to:

(1) medical care;

(2) nutritional services;

(3) housing assistance;

(4) adoption services;

(5) education and employment assistance, including services that support the continuation and completion of high school;

(6) child care assistance; and

(7) parenting education and support services.

An applicant may not provide or assist a woman to obtain adoption services from a provider of adoption services that is not licensed.

(b) In addition to providing information and referral under paragraph (a), an eligible program may provide one or more of the necessary services under paragraph (a) that assists women in carrying their pregnancies to term. To avoid duplication of efforts, grantees may refer to other public or private programs, rather than provide the care directly, if a woman meets eligibility criteria for the other programs.

(c) To be eligible for a grant, an agency or organization must:

(1) be a private, nonprofit organization;

(2) demonstrate that the program is conducted under appropriate supervision;

(3) not charge women for services provided under the program;

(4) provide each pregnant woman counseled with accurate information on the developmental characteristics of babies and of unborn children, including offering the printed information described in section 145.4243;

(5) ensure that its alternatives-to-abortion program's purpose is to assist and encourage women in carrying their pregnancies to term and to maximize their potentials thereafter; and

(6) ensure that none of the money provided is used to encourage a woman to have an abortion not necessary to prevent her death or to provide her an abortion.

(d) The provisions, words, phrases, and clauses of paragraph (c) are inseverable from this subdivision, and if any provision, word, phrase, or clause of paragraph (c) or its application to any person or circumstance is held invalid, the invalidity applies to all of this subdivision.

(e) An organization that provides abortions, promotes abortions, or encourages or arranges for abortions is ineligible to receive a grant under this program. An affiliate of an organization that provides abortions, promotes abortions, or encourages or arranges for abortions is ineligible to receive a grant under this section unless the organizations are separately incorporated and independent from each other. To be independent, the organizations may not share any of the following:

(1) the same or a similar name;

(2) medical facilities or nonmedical facilities, including but not limited to, business offices, treatment rooms, consultation rooms, examination rooms, and waiting rooms;

(3) expenses;

(4) employee wages or salaries; or

(5) equipment or supplies, including but not limited to, computers, telephone systems, telecommunications equipment, and office supplies.

(f) An organization that receives a grant under this section and that is affiliated with an organization that provides abortion services must maintain financial records that demonstrate strict compliance with this subdivision and that demonstrate that its independent affiliate that provides abortion services receives no direct or indirect economic or marketing benefit from the grant under this section.

(g) If an organization or agency receiving a grant under this section provides information on abortion, the information provided must be objective, nonjudgmental, and designed to convey only accurate scientific information. The commissioner of education, in consultation with the commissioner of health, shall approve any information provided by a grantee on the health risks associated with abortions to ensure that the information meets this requirement.

Subd. 3. [PRIVACY PROTECTION.] (a) Any program receiving a grant under this section must have a privacy policy and procedures in place to ensure that the name, address, telephone number, or any other information that might identify any woman seeking the services of the program is not made public or shared with any other agency or organization without the written consent of the woman. All communications between the program and the woman must remain confidential. For purposes of any medical care provided by the program, including, but not limited to, pregnancy tests or ultrasonic scanning, the program must adhere to the requirements in section 144.335 that apply to providers before releasing any information relating to the medical care provided.

(b) Notwithstanding paragraph (a), the commissioner of education has access to any information necessary to monitor and review a grantee's program as required under subdivision 4.

Subd. 4. [DUTIES OF COMMISSIONER.] The commissioner of education shall make grants under subdivision 2 beginning no later than July 1, 2006. In awarding grants, the commissioner shall consider the program's demonstrated capacity in providing services to assist a pregnant woman in carrying her pregnancy to term. The commissioner shall monitor and review the programs of each grantee to ensure that the grantee carefully adheres to the purposes and requirements of subdivision 2 and shall cease funding a grantee that fails to do so.

Subd. 5. [SEVERABILITY.] Except as provided in subdivision 2, paragraph (d), if any provision, word, phrase, or clause of this section or its application to any person or circumstance is held invalid, the invalidity does not affect the provisions, words, phrases, clauses, or applications of this section that can be given effect without the invalid provision, word, phrase, clause, or application and to this end, the provisions, words, phrases, and clauses of this section are severable.

Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY PROMOTION.]

\$2,500,000 is appropriated from the general fund to the commissioner of education for positive abortion alternatives under new Minnesota Statutes, section 127A.145. Of this amount, \$50,000 is available for the fiscal year ending June 30, 2006, and \$100,000 is available for the fiscal year ending June 30, 2007, for administrative costs of implementing the grant program. The balance of the appropriation is available for the fiscal year ending June 30, 2007."

Delete the title and insert:

"A bill for an act relating to health; providing for grants related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 127A."

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

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

S.F. No. 1204: A bill for an act relating to health; recodifying statutes and rules relating to social work; authorizing rulemaking; providing penalties; modifying provisions relating to physical therapists; providing penalties; modifying the Psychology Practice Act; phasing out licensure as a licensed psychological practitioner; modifying dental licensure provisions; establishing fees; modifying provisions for licensed professional counselors; authorizing certain rulemaking; modifying physician review; modifying information contained on prescriptions; providing recognition for the practice of respiratory therapy in emergency situations; providing that audiologists need not obtain hearing instrument dispenser certification; providing penalties; transferring oversight authority for the Office of Mental Health Practice; requiring a report; establishing penalty fees for certain credentialed health occupations; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 13.383, subdivision 10; 13.411, subdivision 5; 144.335, subdivision 1; 144A.46, subdivision 2; 147.09; 147A.18, subdivisions 1, 3; 147C.05; 148.512, subdivision 6, by adding subdivisions; 148.515, by adding a subdivision; 148.5194, by adding subdivisions; 148.5195, subdivision 3; 148.6445, by adding a subdivision; 148.65, by adding subdivisions; 148.706; 148.75; 148.89, subdivision 5; 148.90, subdivision 1; 148.907, by adding a subdivision; 148.908, subdivision 2, by adding a subdivision; 148.909; 148.916, subdivision 2; 148.925, subdivision 6; 148.941, subdivision 2; 148.96, subdivision 3; 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59; 148B.60; 148B.61; 148C.03, subdivision 1; 148C.04, subdivisions 3, 4, 6; 148C.091, subdivision 1; 148C.10, subdivision 2; 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by adding a subdivision; 150A.01, subdivision 6a; 150A.06, subdivision 1a; 150A.10, subdivision 1a; 153A.13, subdivision 5; 153A.14, subdivisions 2i, 4, 4c; 153A.15, subdivision 1; 153A.20, subdivision 1; 214.01, subdivision 2; 214.103, subdivision 1; 245.462, subdivision 18; 245.4871, subdivision 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a; 319B.02, subdivision 19; 319B.40; Laws 2003, chapter 118, section 29, as amended; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; 148C; 150A; 153A; providing coding for new law as Minnesota Statutes, chapter 148D; repealing Minnesota Statutes 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02; 148C.12, subdivision 4; 153A.14, subdivision 2a; Minnesota Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300; 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; 8740.0345.

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

Page 11, line 33, after the period, insert "The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a."

Page 12, lines 32 and 33, delete "and criminal prosecution"

Page 59, after line 19, insert:

"Subd. 8. [TEMPORARY FEE REDUCTION.] For fiscal years 2006, 2007, 2008, and 2009, the following fee changes are effective:

(1) in subdivision 1, the application fee for a licensed independent social worker is reduced to \$45;

(2) in subdivision 1, the application fee for a licensed independent clinical social worker is reduced to \$45;

(3) in subdivision 1, the application fee for a licensure by endorsement is reduced to \$85;

(4) in subdivision 2, the license fee for a licensed social worker is reduced to \$90;

(5) in subdivision 2, the license fee for a licensed graduate social worker is reduced to \$160;

(6) in subdivision 2, the license fee for a licensed independent social worker is reduced to \$240;

(7) in subdivision 2, the license fee for a licensed independent clinical social worker is reduced to \$265;

(8) in subdivision 3, the renewal fee for a licensed social worker is reduced to \$90;

(9) in subdivision 3, the renewal fee for a licensed graduate social worker is reduced to \$160;

(10) in subdivision 3, the renewal fee for a licensed independent social worker is reduced to \$240;

(11) in subdivision 3, the renewal fee for a licensed independent clinical social worker is reduced to \$265; and

(12) in subdivision 5, the renewal late fee is reduced to one-third of the renewal fee specified in subdivision 3.

This subdivision expires on June 30, 2009."

Page 74, line 25, after the period, insert "Financial responsibility for failed appointment billings resides solely with the client and such costs may not be billed to public or private payers."

Page 105, delete section 13

Page 120, delete lines 18 to 21 and insert:

"The dental hygienist shall not perform may administer injections of local anesthetic agents or the administration of nitrous oxide unless under the indirect supervision of inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist. The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists may work with"

Pages 147 to 160, delete article 7 and insert:

"ARTICLE 7

COMMISSIONER OF HEALTH - AUDIOLOGISTS

Section 1. Minnesota Statutes 2004, section 148.512, subdivision 6, is amended to read:

Subd. 6. [AUDIOLOGIST.] "Audiologist" means a natural person who engages in the practice of audiology, meets the qualifications required by sections 148.511 to 148.5196 148.5198, and is licensed by the commissioner under a general, clinical fellowship, doctoral externship, or temporary license. Audiologist also means a natural person using any descriptive word with the title audiologist.

Sec. 2. Minnesota Statutes 2004, section 148.512, is amended by adding a subdivision to read:

Subd. 10a. [HEARING AID.] "Hearing aid" means an instrument, or any of its parts, worn in the ear canal and designed to or represented as being able to aid or enhance human hearing. "Hearing aid" includes the aid's parts, attachments, or accessories, including, but not limited to, ear molds and behind the ear (BTE) devices with or without an ear mold. Batteries and cords are not parts, attachments, or accessories of a hearing aid. Surgically implanted hearing aids, and assistive listening devices not worn within the ear canal, are not hearing aids.

Sec. 3. Minnesota Statutes 2004, section 148.512, is amended by adding a subdivision to read:

Subd. 10b. [HEARING AID DISPENSING.] "Hearing aid dispensing" means making ear mold impressions, prescribing, or recommending a hearing aid, assisting the consumer in aid selection, selling hearing aids at retail, or testing human hearing in connection with these activities regardless of whether the person conducting these activities has a monetary interest in the dispensing of hearing aids to the consumer.

Sec. 4. Minnesota Statutes 2004, section 148.513, is amended by adding a subdivision to read:

Subd. 2a. [HEARING AID DISPENSERS.] An audiologist must not hold out as a licensed hearing aid dispenser.

Sec. 5. Minnesota Statutes 2004, section 148.515, is amended by adding a subdivision to read:

Subd. 6. [DISPENSING AUDIOLOGIST EXAMINATION REQUIREMENTS.] (a) Audiologists are exempt from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

(b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512 to 148.5198 must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c).

(c) In order to dispense hearing aids as a sole proprietor, member of a partnership, or for a limited liability company, corporation, or any other entity organized for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198, before August 1, 2005, and who is not certified to dispense hearing aids under chapter 153A, must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who obtained licensure before August 1, 2005, are exempt from the practical tests.

Sec. 6. Minnesota Statutes 2004, section 148.5194, is amended by adding a subdivision to read:

Subd. 7. [AUDIOLOGIST SURCHARGE FEE.] (a) The biennial surcharge fee for audiologists is \$235. The commissioner shall prorate the fee for clinical fellowship, doctoral externship, temporary, and first time licensees according to the number of months that have elapsed between the date the license is issued and the date the license expires or must be renewed under section 148.5191, subdivision 4.

(b) Effective November 1, 2005, the commissioner shall collect the \$235 audiologist surcharge fee prorated according to the number of months remaining until the next scheduled license renewal.

Sec. 7. Minnesota Statutes 2004, section 148.5195, subdivision 3, is amended to read:

Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER.] The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

(1) intentionally submitted false or misleading information to the commissioner or the advisory council;

(2) failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;

(3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;

(4) violated sections 148.511 to ~~148.5196~~ 148.5198;

(5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;

(7) aided or abetted another person in violating any provision of sections 148.511 to 148.5196 148.5198;

(8) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those under sections 148.511 to 148.5196;

(9) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 1;

(10) advertised in a manner that is false or misleading;

(11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(12) failed to disclose to the consumer any fee splitting or any promise to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

(13) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(14) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(15) performed services for a client who had no possibility of benefiting from the services;

(16) failed to refer a client for medical evaluation or to other health care professionals when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(17) ~~if the individual is a dispenser of hearing instruments as defined by section 153A.13, subdivision 5, had the certification required by chapter 153A; denied, suspended, or revoked according to chapter 153A;~~

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools, the Council on Academic Accreditation in Audiology and Speech-Language Pathology, the United States Department of Education, or an equivalent; ~~or~~

(19) failed to comply with the requirements of section 148.5192 regarding supervision of speech-language pathology assistants.; or

(20) if the individual is an audiologist or certified hearing aid dispenser:

(i) prescribed or otherwise recommended to a consumer or potential consumer the use of a hearing aid, unless the prescription from a physician or recommendation from an audiologist or certified dispenser is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is made, and bears the following information in all capital letters of 12-point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING AIDS MAY BE PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER OF YOUR CHOICE";

(ii) failed to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when the consumer requests a copy;

(iii) failed to provide the consumer rights brochure required by section 148.5197, subdivision 3;

(iv) failed to comply with restrictions on sales of hearing aids in sections 148.5197, subdivision 3, and 148.5198;

(v) failed to return a consumer's hearing aid used as a trade-in or for a discount in the price of a new hearing aid when requested by the consumer upon cancellation of the purchase agreement;

(vi) failed to follow Food and Drug Administration or Federal Trade Commission regulations relating to dispensing hearing aids;

(vii) failed to dispense a hearing aid in a competent manner or without appropriate training;

(viii) delegated hearing instrument dispensing authority to a person not authorized to dispense a hearing instrument under this chapter or chapter 153A;

(ix) failed to comply with the requirements of an employer or supervisor of a hearing aid dispenser trainee; or

(x) violated a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the individual's hearing aid dispensing.

Sec. 8. Minnesota Statutes 2004, section 148.5196, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The commissioner shall appoint ~~eight~~ 12 persons to a Speech-Language Pathologist and Audiologist Advisory Council. The ~~eight~~ 12 persons must include:

(1) ~~two~~ three public members, as defined in section 214.02. Two of the public members shall be either persons receiving services of a speech-language pathologist or audiologist, or family members of or caregivers to such persons, and at least one of the public members shall be either a hearing instrument user or an advocate of one;

(2) ~~two~~ three speech-language pathologists licensed under sections 148.511 to 148.5196, one of whom is currently and has been, for the five years immediately preceding the appointment, engaged in the practice of speech-language pathology in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, and government agencies;

(3) one speech-language pathologist licensed under sections 148.511 to 148.5196, who is currently and has been, for the five years immediately preceding the appointment, employed by a Minnesota public school district or a Minnesota public school district consortium that is authorized by Minnesota Statutes and who is licensed in speech-language pathology by the Minnesota Board of Teaching;

(4) ~~two~~ three audiologists licensed under sections 148.511 to 148.5196, ~~one~~ two of whom ~~is~~ are currently and ~~has~~ have been, for the five years immediately preceding the appointment, engaged in the practice of audiology and the dispensing of hearing instruments in Minnesota and each of whom is employed in a different employment setting including, but not limited to, private practice, hospitals, rehabilitation settings, educational settings, industry, and government agencies; ~~and~~

(5) one nonaudiologist hearing instrument dispenser recommended by a professional association representing hearing instrument dispensers; and

(6) one physician licensed under chapter 147 and certified by the American Board of Otolaryngology, Head and Neck Surgery.

Sec. 9. [148.5197] [HEARING AID DISPENSING.]

Subdivision 1. [CONTENT OF CONTRACTS.] Oral statements made by an audiologist or certified dispenser regarding the provision of warranties, refunds, and service on the hearing aid or aids dispensed must be written on, and become part of, the contract of sale, specify the item or items covered, and indicate the person or business entity obligated to provide the warranty, refund, or service.

Subd. 2. [REQUIRED USE OF LICENSE NUMBER.] The audiologist's license number or certified dispenser's certificate number must appear on all contracts, bills of sale, and receipts used in the sale of hearing aids.

Subd. 3. [CONSUMER RIGHTS INFORMATION.] An audiologist or certified dispenser

shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to dispensing of hearing aids, to each potential consumer of a hearing aid. The brochure must contain information about the consumer information center described in section 153A.18. A contract for a hearing aid must note the receipt of the brochure by the consumer, along with the consumer's signature or initials.

Subd. 4. [LIABILITY FOR CONTRACTS.] Owners of entities in the business of dispensing hearing aids, employers of audiologists or persons who dispense hearing aids, supervisors of trainees or audiology students, and hearing aid dispensers conducting the transaction at issue are liable for satisfying all terms of contracts, written or oral, made by their agents, employees, assignees, affiliates, or trainees, including terms relating to products, repairs, warranties, service, and refunds. The commissioner may enforce the terms of hearing aid contracts against the principal, employer, supervisor, or dispenser who conducted the transaction and may impose any remedy provided for in this chapter.

Sec. 10. [148.5198] [RESTRICTION ON SALE OF HEARING AIDS.]

Subdivision 1. [45-CALENDAR-DAY GUARANTEE AND BUYER RIGHT TO CANCEL.]

(a) An audiologist or certified dispenser dispensing a hearing aid in this state must comply with paragraphs (b) and (c).

(b) The audiologist or certified dispenser must provide the buyer with a 45-calendar-day written money-back guarantee. The guarantee must permit the buyer to cancel the purchase for any reason within 45 calendar days after receiving the hearing aid by giving or mailing written notice of cancellation to the audiologist or certified dispenser. If the buyer mails the notice of cancellation, the 45-calendar-day period is counted using the postmark date, to the date of receipt by the audiologist or certified dispenser. If the hearing aid must be repaired, remade, or adjusted during the 45-calendar-day money-back guarantee period, the running of the 45-calendar-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three business days after notification of availability, after which time the running of the 45-calendar-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a refund of payment within 30 days of return of the hearing aid to the audiologist or certified dispenser. The audiologist or certified dispenser may retain as a cancellation fee no more than \$250 of the buyer's total purchase price of the hearing aid.

(c) The audiologist or certified dispenser shall provide the buyer with a contract written in plain English, that contains uniform language and provisions that meet the requirements under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: "MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 45TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE AUDIOLOGIST OR CERTIFIED DISPENSER. IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 45-CALENDAR-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF THE TOTAL PURCHASE PRICE OF THE AID(S) FROM WHICH THE AUDIOLOGIST OR CERTIFIED DISPENSER MAY RETAIN AS A CANCELLATION FEE NO MORE THAN \$250."

Subd. 2. [ITEMIZED REPAIR BILL.] Any audiologist, certified dispenser, or company who agrees to repair a hearing aid must provide the owner of the hearing aid, or the owner's representative, with a bill that describes the repair and services rendered. The bill must also include the repairing audiologist's, certified dispenser's, or company's name, address, and telephone number.

This subdivision does not apply to an audiologist, certified dispenser, or company that repairs a

hearing aid pursuant to an express warranty covering the entire hearing aid and the warranty covers the entire cost, both parts and labor, of the repair.

Subd. 3. [REPAIR WARRANTY.] Any guarantee of hearing aid repairs must be in writing and delivered to the owner of the hearing aid, or the owner's representative, stating the repairing audiologist's, certified dispenser's, or company's name, address, telephone number, length of guarantee, model, and serial number of the hearing aid and all other terms and conditions of the guarantee.

Subd. 4. [MISDEMEANOR.] A person found to have violated this section is guilty of a misdemeanor.

Subd. 5. [ADDITIONAL.] In addition to the penalty provided in subdivision 4, a person found to have violated this section is subject to the penalties and remedies provided in section 325F.69, subdivision 1.

Subd. 6. [ESTIMATES.] Upon the request of the owner of a hearing aid or the owner's representative for a written estimate and prior to the commencement of repairs, a repairing audiologist, certified dispenser, or company shall provide the customer with a written estimate of the price of repairs. If a repairing audiologist, certified dispenser, or company provides a written estimate of the price of repairs, it must not charge more than the total price stated in the estimate for the repairs. If the repairing audiologist, certified dispenser, or company after commencing repairs determines that additional work is necessary to accomplish repairs that are the subject of a written estimate and if the repairing audiologist, certified dispenser, or company did not unreasonably fail to disclose the possible need for the additional work when the estimate was made, the repairing audiologist, certified dispenser, or company may charge more than the estimate for the repairs if the repairing audiologist, certified dispenser, or company immediately provides the owner or owner's representative a revised written estimate pursuant to this section and receives authorization to continue with the repairs. If continuation of the repairs is not authorized, the repairing audiologist, certified dispenser, or company shall return the hearing aid as close as possible to its former condition and shall release the hearing aid to the owner or owner's representative upon payment of charges for repairs actually performed and not in excess of the original estimate.

Sec. 11. Minnesota Statutes 2004, section 153A.13, subdivision 5, is amended to read:

Subd. 5. [DISPENSER OF HEARING INSTRUMENTS.] "Dispenser of hearing instruments" means a natural person who engages in hearing instrument dispensing whether or not certified by the commissioner of health or licensed by an existing health-related board, except that a person described as follows is not a dispenser of hearing instruments:

(1) a student participating in supervised field work that is necessary to meet requirements of an accredited educational program if the student is designated by a title which clearly indicates the student's status as a student trainee; or

(2) a person who helps a dispenser of hearing instruments in an administrative or clerical manner and does not engage in hearing instrument dispensing.

A person who offers to dispense a hearing instrument, or a person who advertises, holds out to the public, or otherwise represents that the person is authorized to dispense hearing instruments must be certified by the commissioner except when the person is an audiologist as defined in section 148.512.

Sec. 12. Minnesota Statutes 2004, section 153A.14, subdivision 2h, is amended to read:

Subd. 2h. [CERTIFICATION BY EXAMINATION.] An applicant must achieve a passing score, as determined by the commissioner, on an examination according to paragraphs (a) to (c).

(a) The examination must include, but is not limited to:

(1) A written examination approved by the commissioner covering the following areas as they pertain to hearing instrument selling:

- (i) basic physics of sound;
- (ii) the anatomy and physiology of the ear;
- (iii) the function of hearing instruments; and
- (iv) the principles of hearing instrument selection; ~~and~~
- (v) ~~state and federal laws, rules, and regulations.~~

(2) Practical tests of proficiency in the following techniques as they pertain to hearing instrument selling:

- (i) pure tone audiometry, including air conduction testing and bone conduction testing;
- (ii) live voice or recorded voice speech audiometry including speech recognition (discrimination) testing, most comfortable loudness level, and uncomfortable loudness measurements of tolerance thresholds;
- (iii) masking when indicated;
- (iv) recording and evaluation of audiograms and speech audiometry to determine proper selection and fitting of a hearing instrument;
- (v) taking ear mold impressions; ~~and~~
- (vi) using an otoscope for the visual observation of the entire ear canal; and
- (vii) state and federal laws, rules, and regulations.

(b) The examination shall be administered by the commissioner at least twice a year.

(c) An applicant must achieve a passing score on all portions of the examination within a two-year period. An applicant who does not achieve a passing score on all portions of the examination within a two-year period must retake the entire examination and achieve a passing score on each portion of the examination. An applicant who does not apply for certification within one year of successful completion of the examination must retake the examination and achieve a passing score on each portion of the examination. An applicant may not take any part of the examination more than three times in a two-year period.

Sec. 13. Minnesota Statutes 2004, section 153A.14, subdivision 2i, is amended to read:

Subd. 2i. [CONTINUING EDUCATION REQUIREMENT.] On forms provided by the commissioner, each certified dispenser must submit with the application for renewal of certification evidence of completion of ten course hours of continuing education earned within the 12-month period of July 1 to June 30 immediately preceding renewal. Continuing education courses must be directly related to hearing instrument dispensing and approved by the International Hearing Society or ~~qualify for continuing education approved for Minnesota licensed audiologists.~~ Evidence of completion of the ten course hours of continuing education must be submitted with renewal applications by October 1 of each year. This requirement does not apply to dispensers certified for less than one year. The first report of evidence of completion of the continuing education credits shall be due October 1, 1997.

Sec. 14. Minnesota Statutes 2004, section 153A.14, subdivision 4, is amended to read:

Subd. 4. [DISPENSING OF HEARING INSTRUMENTS WITHOUT CERTIFICATE.] Except as provided in subdivisions 4a and 4c, and in sections 148.512 to 148.5198, it is unlawful for any person not holding a valid certificate to dispense a hearing instrument as defined in section 153A.13, subdivision 3. A person who dispenses a hearing instrument without the certificate required by this section is guilty of a gross misdemeanor.

Sec. 15. Minnesota Statutes 2004, section 153A.14, subdivision 4c, is amended to read:

Subd. 4c. [RECIPROCITY.] (a) A person applying for certification as a hearing instrument dispenser under subdivision 1 who has dispensed hearing instruments in another jurisdiction may dispense hearing instruments as a trainee under indirect supervision if the person:

(1) satisfies the provisions of subdivision 4a, paragraph (a);

(2) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 153A.15, subdivision 1; and

(3) provides a copy of a current credential as a hearing instrument dispenser, ~~an audiologist, or both,~~ held in the District of Columbia or a state or territory of the United States.

(b) A person becoming a trainee under this subdivision who fails to take and pass the practical examination described in subdivision 2h, paragraph (a), clause (2), when next offered must cease dispensing hearing instruments unless under direct supervision.

Sec. 16. Minnesota Statutes 2004, section 153A.14, subdivision 9, is amended to read:

Subd. 9. [CONSUMER RIGHTS INFORMATION.] A hearing instrument dispenser shall, ~~at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to sales of hearing instruments, to each potential buyer of a hearing instrument. A sales contract for a hearing instrument must note the receipt of the brochure by the buyer, along with the buyer's signature or initials comply with the requirements of sections 148.5195, subdivision 3, clause (20); 148.5197; and 148.5198.~~

Sec. 17. Minnesota Statutes 2004, section 153A.15, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS.] The commissioner may take enforcement action as provided under subdivision 2 against a dispenser of hearing instruments for the following acts and conduct:

(1) ~~prescribing or otherwise recommending to a consumer or potential consumer the use of a hearing instrument, unless the prescription from a physician or recommendation from a hearing instrument dispenser or audiologist is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is made, and bears the following information in all capital letters of 12-point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE PURCHASED FROM, THE CERTIFIED DISPENSER OF YOUR CHOICE";~~

(2) ~~failing to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when there has been a charge for the audiogram and the consumer requests a copy;~~

(3) ~~dispensing a hearing instrument to a minor person 18 years or younger unless evaluated by an audiologist for hearing evaluation and hearing aid evaluation;~~

(4) ~~failing to provide the consumer rights brochure required by section 153A.14, subdivision 9;~~

(5) ~~(2) being disciplined through a revocation, suspension, restriction, or limitation by another state for conduct subject to action under this chapter;~~

(6) ~~(3) presenting advertising that is false or misleading;~~

(7) ~~(4) providing the commissioner with false or misleading statements of credentials, training, or experience;~~

(8) ~~(5) engaging in conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a consumer;~~

(9) ~~(6)~~ splitting fees or promising to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

(10) ~~(7)~~ engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(11) ~~(8)~~ obtaining money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

~~(12) failing to comply with restrictions on sales of hearing aids in sections 153A.14, subdivision 9, and 153A.19;~~

(13) ~~(9)~~ performing the services of a certified hearing instrument dispenser in an incompetent or negligent manner;

(14) ~~(10)~~ failing to comply with the requirements of this chapter as an employer, supervisor, or trainee;

(15) ~~(11)~~ failing to provide information in a timely manner in response to a request by the commissioner, commissioner's designee, or the advisory council;

(16) ~~(12)~~ being convicted within the past five years of violating any laws of the United States, or any state or territory of the United States, and the violation is a felony, gross misdemeanor, or misdemeanor, an essential element of which relates to hearing instrument dispensing, except as provided in chapter 364;

(17) ~~(13)~~ failing to cooperate with the commissioner, the commissioner's designee, or the advisory council in any investigation;

(18) ~~(14)~~ failing to perform hearing instrument dispensing with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(19) ~~(15)~~ failing to fully disclose actions taken against the applicant or the applicant's legal authorization to dispense hearing instruments in this or another state;

(20) ~~(16)~~ violating a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the applicant in hearing instrument dispensing;

(21) ~~(17)~~ having been or being disciplined by the commissioner of the Department of Health, or other authority, in this or another jurisdiction, if any of the grounds for the discipline are the same or substantially equivalent to those in sections 153A.13 to 153A.19;

(22) ~~(18)~~ misrepresenting the purpose of hearing tests, or in any way communicating that the hearing test or hearing test protocol required by section 153A.14, subdivision 4b, is a medical evaluation, a diagnostic hearing evaluation conducted by an audiologist, or is other than a test to select a hearing instrument, except that the hearing instrument dispenser can determine the need for or recommend the consumer obtain a medical evaluation consistent with requirements of the United States Food and Drug Administration;

~~(23) (19) violating any of the provisions of sections 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.19 153A.18; and~~

~~(24) (20) aiding or abetting another person in violating any of the provisions of sections 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.19 153A.18.~~

Sec. 18. Minnesota Statutes 2004, section 153A.20, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The commissioner shall appoint ~~nine~~ seven persons to a Hearing Instrument Dispenser Advisory Council.

(a) The ~~nine~~ seven persons must include:

(1) three public members, as defined in section 214.02. At least one of the public members shall be a hearing instrument user and one of the public members shall be either a hearing instrument user or an advocate of one; and

(2) three hearing instrument dispensers certified under sections 153A.14 to 153A.20, each of whom is currently, and has been for the five years immediately preceding their appointment, engaged in hearing instrument dispensing in Minnesota and who represent the occupation of hearing instrument dispensing and who are not audiologists; and

(3) ~~three audiologists who are certified hearing instrument dispensers or are one audiologist licensed as audiologists~~ an audiologist under chapter 148 who dispenses hearing instruments, recommended by a professional association representing audiologists and speech-language pathologists.

(b) The factors the commissioner may consider when appointing advisory council members include, but are not limited to, professional affiliation, geographical location, and type of practice.

(c) No two members of the advisory council shall be employees of, or have binding contracts requiring sales exclusively for, the same hearing instrument manufacturer or the same employer.

Sec. 19. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change references from "sections 148.511 to 148.5196" to "sections 148.511 to 148.5198" wherever they appear in Minnesota Statutes and Minnesota Rules, and change "153A.19" to "148.5197" in Minnesota Statutes, section 325G.203.

Sec. 20. [REPEALER.]

Minnesota Statutes 2004, sections 153A.14, subdivisions 2a, 8, and 10; and 153A.19, are repealed.

Sec. 21. [EFFECTIVE DATE.]

Sections 1 to 18 and 20 are effective August 1, 2005."

Page 161, line 4, delete "licensed"

Page 161, line 29, before the period, insert "or services provided by Christian Scientist practitioners"

Pages 162 and 163, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2004, section 148B.61, is amended to read:

148B.61 [OFFICE OF MENTAL HEALTH PRACTICE.]

Subdivision 1. [CREATION AUTHORITY.] (a) The Office of Mental Health Practice is created in the Department of Health transferred to the mental-health-related licensing boards. The mental-health-related licensing boards shall convene an Office of Mental Health Practices Committee to investigate complaints and take and enforce disciplinary actions against all unlicensed mental health practitioners for violations of prohibited conduct, as defined in section 148B.68.

(b) The office committee shall publish a complaint telephone number, provide an informational Web site, and also serve as a referral point and clearinghouse on complaints against mental health services and both licensed and unlicensed mental health professionals, through the dissemination of practitioners. The committee shall disseminate objective information to consumers and through the development and performance of public education activities, including outreach, regarding the provision of mental health services and both licensed and unlicensed mental health professionals who provide these services.

Subd. 2. [RULEMAKING.] ~~The commissioner of health shall adopt rules necessary to~~

~~implement, administer, or enforce provisions of sections 148B.60 to 148B.71 pursuant to chapter 14. The commissioner may not adopt rules that restrict or prohibit persons from providing mental health services on the basis of education, training, experience, or supervision.~~

Subd. 4. [MANAGEMENT, REPORT, AND SUNSET OF THE OFFICE.] (a) The committee shall:

- (1) designate one board to provide administrative management of the committee;
- (2) set the program budget; and
- (3) ensure that the committee's direction is in accord with its authority.

(b) If the participating boards change which board is designated to provide administrative management of the committee, any appropriation remaining for the committee shall transfer to the newly designated board on the effective date of the change. The participating boards must inform the appropriate legislative committees and the commissioner of finance of any change in the designated board and the amount of any appropriation transferred under this provision.

(c) The designated board shall hire the office employees and pay expenses of the committee from funds appropriated for that purpose.

(d) After July 1, 2008, the committee shall prepare and submit a report to the legislature by January 15, 2009, evaluating the activity of the office and making recommendations concerning the regulation of unlicensed mental health practitioners. In the absence of legislative action to continue the committee, the committee expires on June 30, 2009."

Page 164, delete section 4

Page 164, line 13, delete "act" and insert "article"

Page 167, after line 17, insert:

"Sec. 5. Minnesota Statutes 2004, section 214.06, subdivision 1, is amended to read:

Subdivision 1. [FEE ADJUSTMENT.] Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust, as needed, any fee which the commissioner of health or the board is empowered to assess. As provided in section 16A.1285, the adjustment shall be an amount sufficient so that the total fees collected by each board will as closely as possible equal be based on anticipated expenditures during the fiscal biennium, including expenditures for the programs authorized by sections 214.17 to 214.25 and 214.31 to 214.37 214.10, 214.103, 214.11, 214.17 to 214.24, 214.28 to 214.37, and 214.40, except that a health-related licensing board may have anticipated expenditures in excess of anticipated revenues in a biennium by using accumulated surplus revenues from fees collected by that board in previous bienniums. A health-related licensing board shall not spend more money than the amount appropriated by the legislature for a biennium. For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund.

Sec. 6. Minnesota Statutes 2004, section 214.06, is amended by adding a subdivision to read:

Subd. 1a. [HEALTH OCCUPATIONS LICENSING ACCOUNT.] Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund. The commissioner of finance shall ensure that the revenues and expenditures of each health-related licensing board are tracked separately in the health occupations licensing account.

ARTICLE 10
EMERGENCY MEDICAL SERVICES REGULATORY BOARD

Section 1. Minnesota Statutes 2004, section 144E.001, subdivision 8, is amended to read:

Subd. 8. [LICENSEE.] "Licensee" means a natural person, partnership, association, corporation, Indian tribe, or unit of government which possesses an ambulance service license.

Sec. 2. Minnesota Statutes 2004, section 144E.001, is amended by adding a subdivision to read:

Subd. 14a. [TRIBE.] "Tribe" means a federally recognized Indian tribe, as defined in United States Code, title 25, section 450b, paragraph (e), located within the state of Minnesota.

Sec. 3. Minnesota Statutes 2004, section 144E.001, subdivision 15, is amended to read:

Subd. 15. [VOLUNTEER AMBULANCE ATTENDANT.] "Volunteer ambulance attendant" means a person who provides emergency medical services for a Minnesota licensed ambulance service without the expectation of remuneration and who does not depend in any way upon the provision of these services for the person's livelihood. An individual may be considered a volunteer ambulance attendant even though the individual receives an hourly stipend for each hour of actual service provided, except for hours on standby alert, or other nominal fee, and even though the hourly stipend or other nominal fee is regarded as taxable income for purposes of state or federal law, provided that the hourly stipend and other nominal fees do not exceed \$3,000 ~~within one year of the final certification examination~~ \$6,000 annually.

Sec. 4. [144E.266] [EMERGENCY SUSPENSION OF AMBULANCE SERVICE REQUIREMENT.]

(a) The requirements of sections 144E.10; 144E.101, subdivisions 1, 2, 3, 6, 7, 8, 9, 10, 11, and 13; 144E.103; 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are suspended:

(1) throughout the state during a national security emergency declared under section 12.31;

(2) in the geographic areas of the state affected during a peacetime emergency declared under section 12.31; and

(3) in the geographic areas of the state affected during a local emergency declared under section 12.29.

(b) For purposes of this section, the geographic areas of the state affected shall include geographic areas where one or more ambulance services are providing requested mutual aid to the site of the emergency.

Sec. 5. Minnesota Statutes 2004, section 144E.27, subdivision 2, is amended to read:

Subd. 2. [REGISTRATION.] To be eligible for registration with the board as a first responder, an individual shall complete a board-approved application form and:

(1) successfully complete a board-approved initial first responder training program. Registration under this clause is valid for two years and expires at the end of the month in which the registration was issued; or

(2) be credentialed as a first responder by the National Registry of Emergency Medical Technicians. Registration under this clause expires the same day as the National Registry credential.

Sec. 6. Minnesota Statutes 2004, section 144E.28, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] To be eligible for certification by the board as an EMT, EMT-I, or EMT-P, an individual shall:

(1) successfully complete the United States Department of Transportation course, or its equivalent as approved by the board, specific to the EMT, EMT-I, or EMT-P classification; ~~and~~

(2) pass the written and practical examinations approved by the board and administered by the board or its designee, specific to the EMT, EMT-I, or EMT-P classification; and

(3) complete a board-approved application form.

Sec. 7. Minnesota Statutes 2004, section 144E.28, subdivision 3, is amended to read:

Subd. 3. [RECIPROCITY.] The board may certify an individual who possesses a current National Registry of Emergency Medical Technicians registration from another jurisdiction if the individual submits a board-approved application form. The board certification classification shall be the same as the National Registry's classification. Certification shall be for the duration of the applicant's registration period in another jurisdiction, not to exceed two years.

Sec. 8. Minnesota Statutes 2004, section 144E.28, subdivision 7, is amended to read:

Subd. 7. [RENEWAL.] (a) Before the expiration date of certification, an applicant for renewal of certification as an EMT shall:

(1) successfully complete a course in cardiopulmonary resuscitation that is approved by the board or the licensee's medical director; and

(2) take the United States Department of Transportation EMT refresher course and successfully pass the practical skills test portion of the course, or successfully complete 48 hours of continuing education in EMT programs that are consistent with the United States Department of Transportation National Standard Curriculum or its equivalent as approved by the board or as approved by the licensee's medical director and pass a practical skills test approved by the board and administered by a training program approved by the board. The cardiopulmonary resuscitation course and practical skills test may be included as part of the refresher course or continuing education renewal requirements. Twenty-four of the 48 hours must include at least four hours of instruction in each of the following six categories:

- (i) airway management and resuscitation procedures;
- (ii) circulation, bleeding control, and shock;
- (iii) human anatomy and physiology, patient assessment, and medical emergencies;
- (iv) injuries involving musculoskeletal, nervous, digestive, and genito-urinary systems;
- (v) environmental emergencies and rescue techniques; and
- (vi) emergency childbirth and other special situations; and

(3) complete a board-approved application form.

(b) Before the expiration date of certification, an applicant for renewal of certification as an EMT-I or EMT-P shall:

(1) for an EMT-I, successfully complete a course in cardiopulmonary resuscitation that is approved by the board or the licensee's medical director and for an EMT-P, successfully complete a course in advanced cardiac life support that is approved by the board or the licensee's medical director; and

(2) successfully complete 48 hours of continuing education in emergency medical training programs, appropriate to the level of the applicant's EMT-I or EMT-P certification, that are consistent with the United States Department of Transportation National Standard Curriculum or its equivalent as approved by the board or as approved by the licensee's medical director. An applicant may take the United States Department of Transportation Emergency Medical Technician refresher course or its equivalent without the written or practical test as approved by the board, and as appropriate to the applicant's level of certification, as part of the 48 hours of continuing education. Each hour of the refresher course, the cardiopulmonary resuscitation course, and the advanced cardiac life support course counts toward the 48-hour continuing education requirement; and

(3) complete a board-approved application form.

(c) Certification shall be renewed every two years.

(d) If the applicant does not meet the renewal requirements under this subdivision, the applicant's certification expires.

Sec. 9. Minnesota Statutes 2004, section 144E.28, subdivision 8, is amended to read:

Subd. 8. [REINSTATEMENT.] (a) Within four years of a certification expiration date, a person whose certification has expired under subdivision 7, paragraph (d), may have the certification reinstated upon submission of:

(1) evidence to the board of training equivalent to the continuing education requirements of subdivision 7; and

(2) a board-approved application form.

(b) If more than four years have passed since a certificate expiration date, an applicant must complete the initial certification process required under subdivision 1."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 22, after "2;" insert "144E.001, subdivisions 8, 15, by adding a subdivision; 144E.27, subdivision 2; 144E.28, subdivisions 1, 3, 7, 8;"

Page 1, line 24, after the semicolon, insert "148.513, by adding a subdivision;"

Page 1, line 26, after "3;" insert "148.5196, subdivision 1;"

Page 1, line 40, after "subdivisions" insert "2h," and after "4c" insert ", 9"

Page 1, line 41, after "2;" insert "214.06, subdivision 1, by adding a subdivision;"

Page 2, line 1, after "chapters" insert "144E;"

Page 2, line 2, delete "providing" and insert "proposing"

Page 2, line 9, delete the second "subdivision" and insert "subdivisions" and after "2a" insert ", 8, 10; 153A.19"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2259, 834, 631, 2267, 2277, 540, 538, 1378, 917 and 1204 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 1951 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Wergin moved that her name be stricken as a co-author to S.F. No. 1313. The motion prevailed.

Senator Johnson, D.E. moved that Senate Resolution No. 92 be taken from the table. The motion prevailed.

Senate Resolution No. 92: A Senate resolution recognizing May 5, 2005, as a Day of Prayer in Minnesota.

WHEREAS, the citizens of the state of Minnesota have roots in many cultures, with nearly every nationality represented, and honor a variety of religious traditions; and

WHEREAS, the history of our state is replete with leaders who voluntarily called upon God, whether the need was great or small; and

WHEREAS, civic and national days of prayer have a long and venerable history in our constitutional republic, dating back to the First Continental Congress in 1775; and

WHEREAS, the Declaration of Independence, our first statement as Americans of national purpose and identity, made "the laws of Nature and of Nature's God" the foundation of our United States of America and asserted that people have inalienable rights that are God-given; and

WHEREAS, in 1988, legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both houses of Congress and signed by the President; and

WHEREAS, the National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God's grace, to give thanks for blessings received, to request healing for wounds endured, and to ask God to guide our leaders, bless our troops, and bring wholeness to the United States and its citizens; and

WHEREAS, May 5, 2005, marks the fifty-fourth consecutive observance of the National Day of Prayer in cities and towns throughout the United States and provides us with a powerful opportunity to humble ourselves; and

WHEREAS, this year it is fitting that we pray especially for American armed services members serving in Iraq, Afghanistan, Bosnia, Kosovo, and other parts of the world, or supporting those who serve there; and

WHEREAS, the citizens of Minnesota have the opportunity to gather on this day to pray in their own way; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota that it recognizes May 5, 2005, as a Day of Prayer in the state of Minnesota and commends this observance to all citizens.

BE IT FURTHER RESOLVED that the Secretary of the Senate is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Senate Majority Leader, and transmit it to the National Prayer Committee.

Senator Bachmann moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

S.F. No. 4 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 4

A bill for an act relating to agriculture; increasing minimum ethanol content required for gasoline sold in the state; establishing a petroleum replacement goal; amending Minnesota Statutes 2004, section 239.791, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 239.

May 2, 2005

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 4, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 4 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 239.791, subdivision 1, is amended to read:

Subdivision 1. [MINIMUM ETHANOL CONTENT REQUIRED.] (a) Except as provided in subdivisions 10 to 14, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least 10.0 percent denatured ethanol by volume.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and permitted contaminants, comprises not less than 9.2 percent by volume and not more than 10.0 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol/ether content in motor fuels.

(c) The provisions of this subdivision are suspended during any period of time that subdivision 1a, paragraph (a), is in effect.

Sec. 2. Minnesota Statutes 2004, section 239.791, is amended by adding a subdivision to read:

Subd. 1a. [MINIMUM ETHANOL CONTENT REQUIRED.] (a) Except as provided in subdivisions 10 to 14, on August 30, 2013, and thereafter, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least 20 percent denatured ethanol by volume.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and permitted contaminants, comprises not less than 18.4 percent by volume and not more than 20 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol content in motor fuels.

(c) No motor fuel shall be deemed to be a defective product by virtue of the fact that the motor fuel is formulated or blended pursuant to the requirements of paragraph (a) under any theory of liability except for simple or willful negligence or fraud. This paragraph does not preclude an action for negligent, fraudulent, or willful acts. This paragraph does not affect a person whose liability arises under chapter 115, water pollution control; 115A, waste management; 115B, environmental response and liability; 115C, leaking underground storage tanks; or 299J, pipeline safety; under public nuisance law for damage to the environment or the public health; under any other environmental or public health law; or under any environmental or public health ordinance or program of a municipality as defined in section 466.01.

(d) This subdivision expires on December 31, 2010, if by that date:

(1) the commissioner of agriculture certifies and publishes the certification in the State Register that at least 20 percent of the volume of gasoline sold in the state is denatured ethanol; or

(2) federal approval has not been granted for the use of E20 as gasoline. The United States Environmental Protection Agency's failure to act on an application shall not be deemed approval of the use of E20, or a waiver under section 211(f)(4) of the Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4).

Sec. 3. [239.7911] [PETROLEUM REPLACEMENT PROMOTION.]

Subdivision 1. [PETROLEUM REPLACEMENT GOAL.] The petroleum replacement goal of the state of Minnesota is that at least 20 percent of the liquid fuel sold in the state is derived from renewable sources by December 31, 2015.

Subd. 2. [PROMOTION OF RENEWABLE LIQUID FUELS.] (a) The commissioner of agriculture, in consultation with the commissioners of commerce and the Pollution Control Agency, shall identify and implement activities necessary for the widespread use of renewable liquid fuels in the state. Beginning November 1, 2005, and continuing through 2015, the commissioners, or their designees, shall work with representatives from the renewable fuels industry, petroleum retailers, refiners, automakers, small engine manufacturers, and other interested groups, to develop annual recommendations for administrative and legislative action.

(b) The activities of the commissioners under this subdivision shall include, but not be limited to:

(1) developing recommendations for incentives for retailers to install equipment necessary for dispensing renewable liquid fuels to the public;

(2) obtaining federal approval for the use of E20 as gasoline;

(3) developing recommendations for ensuring that motor vehicles and small engine equipment have access to an adequate supply of fuel;

(4) working with the owners and operators of large corporate automotive fleets in the state to increase their use of renewable fuels; and

(5) working to maintain an affordable retail price for liquid fuels.

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

Sec. 4. [REPORT ON E20 FUEL.]

The commissioner of agriculture, in consultation with the commissioners of employment and economic development and the Pollution Control Agency, shall review the information and data collected in the evaluation of any federal waiver request for the use of E20 fuel in Minnesota. The commissioner shall use existing budgetary and staff resources in conducting the review. The review must include:

(1) issues involving the use of E20 fuel if such fuel is mandated in Minnesota;

(2) effects of E20 on development of Minnesota's ethanol industry; and

(3) effects of E20 on Minnesota consumers.

The commissioner shall present an initial report to the legislative committees having jurisdiction over agriculture and environment policy and finance on the findings of the review to the legislature by January 15, 2009, and present an updated report to those committees on January 15, 2011.

Sec. 5. [SMALL ENGINE REPORT.]

The commissioner of commerce, in consultation with the commissioner of agriculture, shall:

(1) solicit information from national experts and stakeholders, which may include the United States Consumer Product Safety Commission, and review scientific studies on the use of E20 gasoline in motorcycles, outboard engines, snowmobiles, lawn and garden products, and other consumer equipment powered by small spark-ignited engines;

(2) inventory and assess the availability of gasoline not blended with ethanol throughout the state for exempt uses under Minnesota Statutes, section 239.791, subdivisions 10 to 14, and make recommendations for addressing those areas in which the commissioner finds unblended gasoline is not readily available to consumers;

(3) develop recommendations for notifying consumers as to the availability of gasoline not blended with ethanol in the state, and the appropriate use of gasoline blended with ethanol in small spark-ignited engines found in motorcycles, outboard engines, snowmobiles, and lawn and garden products; and

(4) by January 15, 2008, report to the agriculture and environmental policy committees of the house of representatives and senate on information and activities required under clauses (1) to (3)."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring studies and reports;"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Dallas C. Sams, Jim Vickerman, Steve Dille

House Conferees: (Signed) Gregory M. Davids, Rod Hamilton, Al Juhnke

Senator Sams moved that the foregoing recommendations and Conference Committee Report on S.F. No. 4 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 4 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 8, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

| | | | | |
|----------|---------|---------|--------|------|
| Belanger | Gerlach | LeClair | Reiter | Ruud |
| Gaither | Hann | Limmer | | |

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Murphy moved that S.F. No. 633 be taken from the table. The motion prevailed.

S.F. No. 633: A bill for an act relating to transportation; modifying provisions relating to the use of freeway or expressway shoulders by transit buses and authorizing the commissioner of transportation to allow such use by metro mobility buses; amending Minnesota Statutes 2004, section 169.306.

CONCURRENCE AND REPASSAGE

Senator Murphy moved that the Senate concur in the amendments by the House to S.F. No. 633 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 633 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MEMBERS EXCUSED

Senator Bachmann was excused from the Session of today from 9:00 to 11:45 a.m. Senator Sams was excused from the Session of today from 9:00 a.m. to 12:10 p.m. Senator Jungbauer was excused from the Session of today from 11:00 to 11:50 a.m. Senator Reiter was excused from the Session of today from 12:15 to 1:00 p.m. Senator Gaither was excused from the Session of today from 12:30 to 12:45 p.m. Senator Pariseau was excused from the Session of today from 12:50 to 2:10 p.m. Senator Anderson was excused from the Session of today at 3:00 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 9:30 a.m., Thursday, May 5, 2005. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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