

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

EIGHTY-SEVENTH DAY

St. Paul, Minnesota, Wednesday, April 7, 2004

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

RECESS

Senator Betzold moved that the Senate do now recess until 10:00 a.m. The motion prevailed.

The hour of 10:00 a.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Pastor Jeanne Markquart.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 6, 2004

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

On behalf of the people of Minnesota, I am honored to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 1958 and 1621.

Sincerely,
Tim Pawlenty, Governor

April 6, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2004 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2004	Date Filed 2004
1958		152	10:40 a.m. April 6	April 6
1621		153	10:45 a.m. April 6	April 6

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 2755.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 5, 2004

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 2755: A bill for an act relating to agriculture; changing certain duties, loan requirements, procedures, inspection requirements, and fees; regulating certain veterinary treatments; modifying provisions governing county and regional fairs; eliminating an ownership disclosure requirement; changing certain grain buyers' bond and financial reporting requirements; changing certain limits; establishing loan and grant programs; providing for faculty veterinary licensure; limiting certain nuisance claims; prohibiting intentional introduction of disease to domestic animals; prohibiting certain trespass on agricultural land; providing a civil remedy; providing criminal penalties; transferring certain funds; appropriating money; changing certain appropriations; amending Minnesota Statutes 2002, sections 16C.135, by adding subdivisions; 17.115, subdivisions 2, 3, 4, 5; 17B.03, subdivision 1; 17B.15, subdivision 1; 27.10; 35.243; 38.04; 38.12; 38.14; 38.15; 38.16; 41B.036; 41B.046, subdivision 5; 41B.049, subdivision 2; 41C.02, subdivision 12; 156.12, subdivision 2, by adding a subdivision; 223.17, subdivisions 3, 6; 231.16; 232.22, subdivision 3; 236.02, subdivision 4; 561.19, subdivision 2; 609.605, subdivision

1, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 18G.10, subdivisions 5, 7; 38.02, subdivisions 1, 3; 41A.09, subdivision 3a; 223.17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 41B; 116J; 609; repealing Minnesota Statutes 2002, sections 18C.433; 38.02, subdivision 2; 38.13; 41B.046, subdivision 3.

Senator Johnson, D.E. moved that H.F. No. 2755 be laid on the table. The motion prevailed.

REPORTS OF COMMITTEES

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

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

S.F. No. 1115: A bill for an act relating to telecommunications; modifying provisions for alternative forms of regulation of telephone companies; amending Minnesota Statutes 2002, sections 237.072; 237.774; Laws 1995, chapter 156, section 25; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 2002, section 237.773; Laws 1995, chapter 156, section 22.

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

Delete everything after the enacting clause and insert:

"Section 1. [237.665] [PROHIBITION AGAINST BILLING FOR UNAUTHORIZED CHARGES.]

(a) A telephone company or telecommunications carrier providing local service shall not include on a customer's bill a charge for goods or services on behalf of a third-party service provider unless the third-party service provider has obtained the customer's prior express authorization to include such charges on the customer's bill.

(b) If a customer of a telephone company or telecommunications carrier notifies the telephone company or telecommunications carrier that an unauthorized charge from a third-party service provider has been included on the customer's bill, then the telephone company or telecommunications carrier shall remove the unauthorized charge. The telephone company or telecommunications carrier shall credit to the customer any amounts paid for the unauthorized charges that were billed by the telephone company or telecommunications carrier during the six months prior to the customer's complaint, unless the third-party service provider can produce within 14 calendar days of the complaint evidence to the customer and the telephone company or the telecommunications carrier of prior express authorization by the customer.

(c) A third-party service provider meets the prior express authorization requirements of this section only if it obtains or receives a customer's written authorization in the form of a letter of agency, a customer's oral authorization verified by an independent third party, or a copy of an e-mail notice of verification as described in clause (3).

(1) If the third-party service provider obtains the customer's written authorization in the form of a letter of agency, it must be a separate or easily separable document. The sole purpose of the letter of agency shall be to authorize a charge for goods or services to appear on the customer's telephone bill. The letter of agency must be of sufficient size to be clearly legible and must contain clear and unambiguous language that contains separate statements for each good or service for which the customer is agreeing to be billed. The letter of agency must be signed and dated by the customer.

(2) If the customer's authorization is oral, the authorization must be verified by an independent third-party verifier. The verification is valid only if:

(i) the independent third party confirms the customer's identity with information unique to the customer unless the customer refuses, then that fact must be noted; and

(ii) the independent third party informs the customer that the customer is agreeing to be billed for goods or services that will appear as a charge on the customer's telephone bill.

(3) If a customer enters a contract via the Internet with a third-party service provider for goods or services which are charged to the bill issued by the customer's telephone company or telecommunications carrier providing local service, the third-party service provider must, within 48 hours of receiving the customer's authorization, send the customer, via e-mail, a notice of verification confirming the authorization. The third-party service provider shall maintain a copy of the notice of verification for the duration of the contract as a record of the customer's express authorization to be charged for the goods or services on the customer's telephone bill for local service.

(d) For direct-dialed calls, where the call itself represents the service for which the charge is placed on a customer's local telephone bill, such as "900 number" services and "dial around" services, evidence that the call was placed from the number that is subject to the telephone bill shall be considered sufficient evidence of authorization for that call for billing authorization purposes established in this section. Nothing in this section shall be construed to change a telephone company's or telecommunication carrier's obligations or affect a telephone subscriber's rights under section 325F.692.

(e) This section does not apply to charges for collect calls.

(f) Nothing in this section restricts the right of a telephone company or telecommunications carrier to seek to recover from a third-party service provider unauthorized charges credited to the customer by the telephone company or telecommunications carrier.

Sec. 2. Minnesota Statutes 2002, section 237.766, is amended to read:

237.766 [PLAN DURATION AND EXTENSION.]

Subdivision 1. [PLAN DURATION.] An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than three years. Except as otherwise provided in this section, within six months prior to the termination of the plan, the plan must be reviewed by the commission and, with the consent of the company, revised or renewed consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a revised or renewed plan. Any revised or renewed plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the revised or renewed plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review the company shall give notice that it will propose a new plan, extend an existing plan, or revert to rate of return regulation.

Subd. 2. [NEW PLAN.] A new plan proposed by a company must be reviewed by the commission and, with the consent of the company, revised or approved consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required, and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a new plan. Any new plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review. A new plan is not an extension, which must be made pursuant to subdivision 3.

Subd. 3. [PLAN EXTENSION.] (a) Notwithstanding the provisions of its plan, a telephone company operating under a plan as of the effective date of this section, may elect to extend that plan for up to three years from the expiration date of the plan or until December 31, 2007, whichever is earlier. The election is effective upon notification to customers, the commission, the department, and the Office of the Attorney General. A telephone company must provide notification of its election within 30 days of the effective date of this section, or within six months of the expiration of its current or expired plan, whichever is later. Once a telephone company has elected to exercise the option provided under this subdivision, the company may elect at any time to terminate the plan by notifying customers, the commission, the department, and the Office of the Attorney General, in writing, six months prior to the termination date. Upon termination of a plan, the company shall be regulated as provided in this chapter.

(b) A telephone company may elect to extend a plan entered into after the effective date of this section in lieu of proposing a new plan only if the company is in substantial compliance with the plan's service quality provisions and has met its infrastructure obligations under the plan. If the company elects to extend a plan, the rates for price-regulated services shall be capped at the rate levels in effect at the time the extension commences, provided, however, exceptions to a price cap contained in the plan being extended may remain in force. Unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period. A plan may not be extended for less than one year or more than three years, and may only be extended once.

(c) The Department of Commerce or the Office of the Attorney General may file an objection to the extension with the commission if the company is not in substantial compliance with the service quality provisions of its plan or has not met its infrastructure obligations under the plan. An objection must be filed within 45 days of the company's notice of its intention to extend the plan.

(d) If an objection is filed by the Department of Commerce or the Office of the Attorney General, the commission may hold a hearing on the issues raised in the objection. The hearings shall be completed within 30 days of the deadline for filing the objections. If the commission finds that the issues raised in the objection are valid, it may reject the extension. If the commission finds that the issues raised in the objection are not valid, it shall approve the extension. The commission shall issue its decision within 15 days of the completion of the hearings concerning the objection.

(e) If the Department of Commerce or the Office of the Attorney General does not file an objection, the commission shall approve the extension within 60 days of the company's filing of its notice of its intention to extend the plan.

Sec. 3. Minnesota Statutes 2002, section 237.773, subdivision 3, is amended to read:

Subd. 3. [LOCAL RATE.] (a) Except as provided in paragraph (b), a small telephone company shall not implement a rate increase for any service listed in section 237.761, subdivision 3, beyond the level in effect 60 days prior to an election under subdivision 2, until the later of January 1, 1998, or two years after making an election. However, a small telephone company may implement any new service and establish rates for any new service and may change rates for any other service at any time subject to the requirements of section 237.761, subdivision 4. A small company shall provide to its customers the ability to block, at no extra charge, any new service which it offers, provides, or bills. This requirement shall not apply to services that require affirmative subscription by the customer. Nothing in this section shall prevent the commission from requiring blocking or other privacy or safety protections for other types of telecommunications services under section 237.081.

(b) At any time following one year after electing under subdivision 2, a small telephone company may change rates for local services except switched network access services, listed in section 237.761, subdivision 3, to reflect:

- (1) changes in state and federal taxes;
- (2) changes in jurisdictional allocations from the Federal Communications Commission, the

amount of which the small telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level;

(3) substantial financial impacts of investments in network upgrades which are made; or

(i) if the investment exceeds 20 percent of the gross plant investment of the company; or

(ii) as the result of government mandates to construct specific telephone infrastructure, if the mandate applies to local telephone companies and the company would not otherwise be compensated.

A small telephone company may change rates for local services listed in section 237.761, subdivision 3, at any time, to implement extended area service or any successor to that service on an income-neutral basis.

A small telephone company proposing an increase under this subdivision shall provide 60 days' advance written notice to the department and each of the company's customers including the individual rates affected and the procedure necessary for the customers to petition for investigation. If the department receives a petition within 45 days after the notice from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the rate change to determine if it conforms to the limitations of this subdivision. Within 30 days of validating the petition, the department shall report its findings to the commission, which shall either adopt the report or order changes to conform to this subdivision.

(c) On or after the later of January 1998, or two years after making an election under subdivision 2, a small telephone company may increase rates for local services, except switched network access services, listed in section 237.761, subdivision 3. A small telephone company proposing an increase shall provide 60 days' advance written notice to its customers including individual rates affected and the procedure necessary for the customers to petition for investigation. If the commission receives a petition within 45 days after such notice, from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the proposed rate increase to determine if it is appropriate in light of rates charged by other local exchange telephone companies for comparable services, taking into account calling scope, quality of service, the availability of competitive alternatives, service costs, and the features available to the customers. Within 30 days of validating the petition, the department shall file a report with the commission which shall then approve appropriate rates for those services. Rates established by the commission under this paragraph shall not be increased within one year of implementation.

Sec. 4. [AFOR PLAN EXTENDED; EXPEDITED APPROVAL OF NEW PLAN.]

(a) A telephone company that has received an order from the Federal Communications Commission, pursuant to United States Code, title 47, section 271, to provide in-region interLATA services in the state and that was operating under an alternative form of regulation plan approved under Minnesota Statutes, sections 237.73 to 237.775, as of December 1, 2003, shall continue to be regulated under the provisions of that plan until December 31, 2005, notwithstanding any contrary provision in the plan or in Minnesota Statutes, sections 237.73 to 237.773. During this period, the telephone company may elect to be regulated under traditional rate of return regulation under Minnesota Statutes, chapter 237, but must give six months' notice of that election to the Public Utilities Commission, the Office of the Attorney General, and the Department of Commerce.

(b) If, on or before December 31, 2004, a telephone company described in paragraph (a), the Department of Commerce and the Office of the Attorney General jointly file with the Public Utilities Commission a new alternative form of regulation plan for the telephone company under Minnesota Statutes, sections 237.73 to 237.775, the new plan shall be effective 60 days after the date of filing.

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective August 1, 2004. Sections 2 and 4 are effective the day following final enactment.

Delete the title and insert:

"A bill for an act relating to telecommunications; regulating third-party billing on telecommunications bills; modifying provisions for alternative forms of regulation of telephone companies; amending Minnesota Statutes 2002, sections 237.766; 237.773, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 237."

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. 2353: A bill for an act relating to taxation; modifying the local government aid formula; eliminating taconite aids from the computation of city formula aid in the local government aid formula; increasing the appropriation for local government aid and providing the funding sources for the increased appropriation; delaying restoration of reductions in market value homestead credit reimbursements; reducing the amount of motor vehicle sales tax proceeds appropriated for transit; authorizing levies for transit; amending Minnesota Statutes 2002, sections 473.388, subdivision 7; 473.446, subdivision 1, by adding subdivisions; Minnesota Statutes 2003 Supplement, sections 297B.09, subdivision 1; 477A.011, subdivision 36; 477A.013, subdivisions 8, 9; 477A.03, subdivision 2a.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2002, section 120A.05, is amended by adding a subdivision to read:

Subd. 18. [KINDERGARTEN.] "Kindergarten" means a program designed for pupils five years of age on September 1 of the calendar year in which the school year commences that prepares pupils to enter first grade the following school year. A program designed for pupils younger than five years of age on September 1 of the calendar year in which the school year commences that prepares pupils to enter kindergarten the following school year is a prekindergarten program.

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

Sec. 2. Minnesota Statutes 2002, section 123A.05, subdivision 2, is amended to read:

Subd. 2. [RESERVE REVENUE.] Each district that is a member of an area learning center must reserve revenue in an amount equal to the sum of (1) at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, transportation sparsity revenue, and the transportation portion of the transition revenue adjustment, times the number of pupil units attending an area learning center program under this section, plus (2) the amount of basic skills revenue generated by pupils attending the area learning center. The amount of reserved revenue under this subdivision may only be spent on program costs associated with the area learning center. Compensatory revenue must be allocated according to section 126C.15, subdivision 2.

Sec. 3. Minnesota Statutes 2002, section 123B.75, is amended by adding a subdivision to read:

Subd. 4a. [TACONITE REVENUE.] Taconite revenue received in a calendar year by a school

district under section 298.28, subdivisions 4b, 4c, and 11d, is fully recognized in the fiscal year in which the February payment falls.

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003, for school district revenue for fiscal year 2004.

Sec. 4. Minnesota Statutes 2003 Supplement, section 124D.095, subdivision 8, is amended to read:

Subd. 8. **[FINANCIAL ARRANGEMENTS.]** (a) For a student enrolled in an on-line learning course, the department must calculate average daily membership and make payments according to this subdivision.

(b) The initial on-line learning average daily membership equals 1/12 for each semester course or a proportionate amount for courses of different lengths. The adjusted on-line learning average daily membership equals the initial on-line learning average daily membership times .88.

(c) No on-line learning average daily membership shall be generated if: (1) the student does not complete the on-line learning course, or (2) the student is enrolled in on-line learning provided by the enrolling district and the student was either enrolled in a Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning, or the student is enrolled in an instructional program in which at least 40 percent of the total instructional time takes place in the school's facilities. For students enrolled in on-line learning according to clause (2), the department shall calculate average daily membership according to section 126C.05, subdivision 8.

(d) On-line learning average daily membership under this subdivision for a student currently enrolled in a Minnesota public school and who was enrolled in a Minnesota public school for the school year before the school year in which the student first enrolled in on-line learning shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause ~~(ii)~~ (2), and for computing on-line learning aid according to section 126C.24.

(e) On-line learning average daily membership under this subdivision for students not included in paragraph (c) or (d) shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause ~~(ii)~~ (2), and for computing payments under paragraphs (f) and (g).

(f) Subject to the limitations in this subdivision, the department must pay an on-line learning provider an amount equal to the product of the adjusted on-line learning average daily membership for students under paragraph (e) times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.

(g) The department must pay each on-line learning provider 100 percent of the amount in paragraph (f) within 45 days of receiving final enrollment and course completion information each quarter or semester.

Sec. 5. Minnesota Statutes 2003 Supplement, section 124D.11, subdivision 1, is amended to read:

Subdivision 1. **[GENERAL EDUCATION REVENUE.]** (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue for each adjusted marginal cost pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue, extended time revenue, transition revenue, and transportation sparsity revenue, plus basic skills revenue and transition revenue as though the school were a school district. The general education revenue for each extended time marginal cost pupil unit equals \$4,378.

(b) Notwithstanding paragraph (a), for charter schools in the first year of operation, general education revenue shall be computed using the number of adjusted pupil units in the current fiscal year.

Sec. 6. Minnesota Statutes 2003 Supplement, section 124D.11, subdivision 2, is amended to read:

Subd. 2. [TRANSPORTATION REVENUE.] Transportation revenue must be paid to a charter school that provides transportation services according to section 124D.10, subdivision 16, according to this subdivision. Transportation aid shall equal transportation revenue.

In addition to the revenue under subdivision 1, a charter school providing transportation services must receive (1) general education aid for each adjusted marginal cost pupil unit equal to the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the school district in which the charter school is located and (2) general education aid for each extended time marginal cost pupil unit equal to the product of \$223 times the school's extended time marginal cost pupil units.

Sec. 7. Minnesota Statutes 2002, section 124D.68, subdivision 9, is amended to read:

Subd. 9. [ENROLLMENT VERIFICATION.] (a) For a pupil attending an eligible program full time under subdivision 3, paragraph (d), the department must pay 90 percent of the district's average general education revenue less basic skills revenue to the eligible program and ten percent of the district's average general education revenue less basic skills revenue to the contracting district within 30 days after the eligible program verifies enrollment using the form provided by the department. For a pupil attending an eligible program part time, revenue, excluding compensatory revenue, shall be reduced proportionately, according to the amount of time the pupil attends the program, and the payments to the eligible program and the contracting district shall be reduced accordingly. A pupil for whom payment is made according to this section may not be counted by any district for any purpose other than computation of general education revenue. If payment is made for a pupil under this subdivision, a district shall not reimburse a program under section 124D.69 for the same pupil. The basic skills revenue shall be paid generated by pupils attending the eligible program according to section 126C.10, subdivision 4, shall be paid to the eligible program.

(b) The department must pay up to 100 percent of the revenue to the eligible program if there is an agreement to that effect between the school district and the eligible program.

(c) Notwithstanding paragraphs (a) and (b), for an eligible program that provides chemical treatment services to students, the department must pay 100 percent of the revenue to the eligible program.

Sec. 8. Minnesota Statutes 2002, section 124D.69, subdivision 1, is amended to read:

Subdivision 1. [AID.] If a pupil enrolls in an alternative program, eligible under section 124D.68, subdivision 3, paragraph (d), or subdivision 4, operated by a private organization that has contracted with a school district to provide educational services for eligible pupils under section 124D.68, subdivision 2, the district contracting with the private organization must reimburse the provider an amount equal to the sum of (1) at least 95 percent of the district's average general education less basic skills revenue per pupil unit times the number of pupil units for pupils attending the program; and (2) the amount of basic skills revenue shall be paid generated by pupils attending the program according to section 126C.10, subdivision 4. ~~Compensatory revenue must be allocated according to section 126C.15, subdivision 2.~~ For a pupil attending the program part time, the revenue paid to the program, excluding compensatory revenue, must be reduced proportionately, according to the amount of time the pupil attends the program, and revenue paid to the district shall be reduced accordingly. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of general education revenue. If payment is made to a district or program for a pupil under this section, the department must not make a payment for the same pupil under section 124D.68, subdivision 9.

Sec. 9. Minnesota Statutes 2003 Supplement, section 125A.79, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, and equipment under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" means for fiscal year 1996, the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivision 7, plus the total referendum revenue according to section 126C.17, subdivision 4. For fiscal years 1997 and later, "General revenue" means the sum of the general education revenue according to section 126C.10, subdivision 1, as adjusted according to section 127A.47, subdivisions 7 and 8, plus the total referendum revenue minus transportation sparsity revenue minus total operating capital revenue.

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

(d) "Program growth factor" means 1.02 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

Sec. 10. Minnesota Statutes 2002, section 126C.05, is amended by adding a subdivision to read:

Subd. 5a. [EXTENDED TIME PUPIL UNITS.] (a) "Extended time average daily membership for a district or charter school" means the sum of the average daily membership according to subdivision 8, paragraph (a), minus the sum of the average daily membership according to subdivision 8, paragraph (b), for pupils enrolled in a learning year program under section 124D.128; an area learning center under sections 123A.05 and 123A.06; an alternative program under section 124D.68, subdivision 3, paragraph (d); or section 124D.69.

(b) "Extended time pupil units for a district or charter school" means the sum of the average daily membership in paragraph (a) weighted according to subdivision 1 for:

(1) pupils served according to subdivision 7; plus

(2) pupils according to subdivision 1 for whom the district or charter school pays tuition under section 123A.18; 123A.22; 123A.30; 123A.32; 123A.44; 123A.488; 123B.88, subdivision 4; 124D.04; 124D.05; sections 125A.03 to 125A.24; 125A.51; or 125A.65; minus

(3) pupils according to subdivision 1 for whom the district or charter school receives tuition under section 123A.18; 123A.22; 123A.30; 123A.32; 123A.44; 123A.488; 123B.88, subdivision 4; 124D.04; 124D.05; sections 125A.03 to 125A.24; 125A.51; or 125A.65.

(c) The "extended time marginal cost pupil units" means the greater of:

(1) the sum of .77 times the pupil units defined in paragraph (b) for the current school year and .23 times the pupil units defined in paragraph (b) for the previous school year; or

(2) the number of extended time pupil units defined in paragraph (b) for the current school year.

Sec. 11. Minnesota Statutes 2003 Supplement, section 126C.10, subdivision 31, is amended to read:

Subd. 31. [TRANSITION REVENUE.] (a) A district's transition allowance for fiscal years 2004 through 2008 equals the greater of zero or the product of the ratio of the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002 to the district's adjusted marginal cost pupil units for fiscal year 2004, times the difference between: (1) the lesser of the district's general education revenue per adjusted marginal cost pupil unit for fiscal year 2003 or the amount of general education revenue the district would have received per adjusted marginal cost pupil unit for fiscal year 2004 according to Minnesota Statutes 2002, and (2) the district's general education revenue for fiscal year 2004 excluding transition revenue divided by the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002. A district's transition allowance for fiscal year 2009 and later is zero.

(b) A district's transition revenue for fiscal year 2004 ~~and later~~ equals the product of the district's transition allowance times the district's adjusted marginal cost pupil units.

(c) A district's transition revenue for fiscal year 2005 equals the sum of:

(1) the product of the district's transition allowance times the district's adjusted marginal cost pupil units, plus (2) the amount of referendum revenue under section 126C.17 and general education revenue, excluding transition revenue, for fiscal year 2004 attributable to pupils four or five years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004.

(d) A district's transition revenue for fiscal year 2006 and later equals the sum of:

(1) the product of the district's transition allowance times the district's adjusted marginal cost pupil units, plus (2) the amount of referendum revenue under section 126C.17 and general education revenue, excluding transition revenue, for fiscal year 2004 attributable to pupils four or five years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004, plus (3) the amount of compensatory education revenue under subdivision 3 for fiscal year 2005 attributable to pupils four years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 12. Minnesota Statutes 2003 Supplement, section 126C.15, subdivision 1, is amended to read:

Subdivision 1. [USE OF THE REVENUE.] Except for revenue allocated for prekindergarten programs under subdivision 2, paragraph (c), the basic skills revenue under section 126C.10, subdivision 4, must be reserved and used to meet the educational needs of pupils who enroll under-prepared to learn and whose progress toward meeting state or local content or performance standards is below the level that is appropriate for learners of their age. Any of the following may be provided to meet these learners' needs:

(1) direct instructional services under the assurance of mastery program according to section 124D.66;

(2) remedial instruction in reading, language arts, mathematics, other content areas, or study skills to improve the achievement level of these learners;

(3) additional teachers and teacher aides to provide more individualized instruction to these learners through individual tutoring, lower instructor-to-learner ratios, or team teaching;

(4) a longer school day or week during the regular school year or through a summer program that may be offered directly by the site or under a performance-based contract with a community-based organization;

(5) comprehensive and ongoing staff development consistent with district and site plans according to section 122A.60, for teachers, teacher aides, principals, and other personnel to improve their ability to identify the needs of these learners and provide appropriate remediation, intervention, accommodations, or modifications;

(6) instructional materials and technology appropriate for meeting the individual needs of these learners;

(7) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, and provide counseling services, guidance services, and social work services;

(8) bilingual programs, bicultural programs, and programs for learners of limited English proficiency;

(9) all day kindergarten;

(10) extended school day and extended school year programs; and

(11) substantial parent involvement in developing and implementing remedial education or intervention plans for a learner, including learning contracts between the school, the learner, and the parent that establish achievement goals and responsibilities of the learner and the learner's parent or guardian.

Sec. 13. Minnesota Statutes 2002, section 126C.15, subdivision 2, is amended to read:

Subd. 2. [BUILDING ALLOCATION.] (a) A district must allocate its compensatory revenue to each school building in the district where the children who have generated the revenue are served unless the school district has received permission from the commissioner under the test score pilot program to allocate compensatory revenue according to test score results.

(b) Notwithstanding paragraph (a), a district may allocate up to five percent of the amount of compensatory revenue that the district ~~received during the previous fiscal year~~ receives to school sites according to a plan adopted by the school board.

(c) Notwithstanding paragraph (a), a district may allocate up to ten percent of the amount of compensatory revenue the district receives to support prekindergarten programs under subdivision 2a.

(d) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

~~(d)~~ (e) If the pupil is served at a site other than one owned and operated by the district, the revenue shall be paid to the district and used for services for pupils who generate the revenue.

[EFFECTIVE DATE.] This section is effective July 1, 2004, for revenue for fiscal year 2005.

Sec. 14. Minnesota Statutes 2002, section 126C.15, is amended by adding a subdivision to read:

Subd. 2a. [PREKINDERGARTEN PROGRAMS.] Revenue allocated under subdivision 2, paragraph (c), must be reserved and used for programs and activities that prepare children ages 3-1/2 to kindergarten entrance for kindergarten. Programs may serve resident and nonresident children. Districts may contract with private preschools and other providers of prekindergarten programs.

Sec. 15. Minnesota Statutes 2002, section 126C.15, subdivision 3, is amended to read:

Subd. 3. [RECOMMENDATION.] A school site decision-making team, as defined in section 123B.04, subdivision 2, paragraph (a), or the instruction and curriculum advisory committee under

section 120B.11, if the school has no school site decision team, shall recommend how the compensatory education revenue will be used to carry out the purpose of this section. A school district that has received permission under the test score pilot program to allocate compensatory revenue according to test results shall share its plan for the distribution of compensatory revenue with the school site decision team.

[EFFECTIVE DATE.] This section is effective July 1, 2004, for revenue for fiscal year 2005.

Sec. 16. Minnesota Statutes 2002, section 126C.21, subdivision 4, is amended to read:

Subd. 4. [TACONITE DEDUCTIONS.] ~~(1) Notwithstanding any provisions of any other law to the contrary, the adjusted net tax capacity used in calculating general education aid may include only that property that is currently taxable in the district.~~

~~(2) For districts that received payments have revenue under sections 298.018; 298.225; 298.24 to 298.28, excluding 298.26, and 298.28, subdivision 4, paragraph (d); 298.34 to 298.39; 298.391 to 298.396; and 298.405; 477A.15; or any law imposing a tax upon severed mineral values; or recognized revenue under section 477A.15; the general education aid must be reduced in the final adjustment payment by (i) the difference between the dollar amount of the payments received revenue recognized pursuant to those sections, or revenue recognized under section 477A.15 in for the fiscal year to which the final adjustment is attributable and, less (ii) the amount that was calculated, pursuant to section 126C.48, subdivision 8, as a reduction of the levy attributable to the fiscal year to which the final adjustment is attributable. If the final adjustment of a district's general education aid for a fiscal year is a negative amount because of this clause, the next fiscal year's general education aid to that district must be reduced by this negative amount in the following manner: there must be withheld from each scheduled general education aid payment due the district in such fiscal year, 15 percent of the total negative amount, until the total negative amount has been withheld. The amount reduced from general education aid pursuant to this clause must be recognized as reduce revenue in the fiscal year to which the final adjustment payment is attributable.~~

[EFFECTIVE DATE.] This section is effective retroactive to July 1, 2003, for school district revenue for fiscal year 2004.

Sec. 17. Minnesota Statutes 2002, section 126C.48, subdivision 8, is amended to read:

Subd. 8. [TACONITE PAYMENT AND OTHER REDUCTIONS.] (1) Reductions in levies pursuant to sections 126C.48, subdivision 1, and 273.138, must be made prior to the reductions in clause (2).

~~(2) Notwithstanding any other law to the contrary, districts which received payments that have revenue pursuant to sections 298.018; 298.225; and 298.24 to 298.28, except an amount distributed under section sections 298.26; 298.28, subdivision 4, paragraph (c), clause (ii); and 298.28, subdivision 4, paragraph (d); 298.34 to 298.39; 298.391 to 298.396; 298.405; 477A.15; and any law imposing a tax upon severed mineral values; or recognized revenue under section 477A.15 must not include a portion of these aids in their permissible levies pursuant to those sections, but instead must reduce the permissible levies authorized by this chapter and chapters 120B, 122A, 123A, 123B, 124A, 124D, 125A, and 127A by the greater of the following:~~

~~(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized under section 477A.15 in the previous fiscal year; or~~

~~(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized under section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times five percent.~~

~~For levy year 2002 only, 77 percent of the amounts distributed under section 298.225 and 298.28, and 100 percent of the amounts distributed under sections 298.018; 298.34 to 298.39; 298.391 to 298.396; 298.405; and any law imposing a tax upon severed mineral values, or recognized revenue under section 477A.15, shall be used for purposes of the calculations under this paragraph. For levy year 2003 only, the levy reductions under this subdivision must be~~

calculated as if section 298.28, subdivision 4, paragraph (f), did not apply for the 2003 distribution 95 percent of the previous year's revenue specified under this clause.

(3) The amount of any voter approved referendum, facilities down payment, and debt levies shall not be reduced by more than 50 percent under this subdivision. In administering this paragraph, the commissioner shall first reduce the nonvoter approved levies of a district; then, if any payments, severed mineral value tax revenue or recognized revenue under paragraph (2) remains, the commissioner shall reduce any voter approved referendum levies authorized under section 126C.17; then, if any payments, severed mineral value tax revenue or recognized revenue under paragraph (2) remains, the commissioner shall reduce any voter approved facilities down payment levies authorized under section 123B.63 and then, if any payments, severed mineral value tax revenue or recognized revenue under paragraph (2) remains, the commissioner shall reduce any voter approved debt levies.

(4) Before computing the reduction pursuant to this subdivision of the health and safety levy authorized by sections 123B.57 and 126C.40, subdivision 5, the commissioner shall ascertain from each affected school district the amount it proposes to levy under each section or subdivision. The reduction shall be computed on the basis of the amount so ascertained.

(5) To the extent the levy reduction calculated under paragraph (2) exceeds the limitation in paragraph (3), an amount equal to the excess must be distributed from the school district's distribution under sections 298.225, 298.28, and 477A.15 in the following year to the cities and townships within the school district in the proportion that their taxable net tax capacity within the school district bears to the taxable net tax capacity of the school district for property taxes payable in the year prior to distribution. No city or township shall receive a distribution greater than its levy for taxes payable in the year prior to distribution. The commissioner of revenue shall certify the distributions of cities and towns under this paragraph to the county auditor by September 30 of the year preceding distribution. The county auditor shall reduce the proposed and final levies of cities and towns receiving distributions by the amount of their distribution. Distributions to the cities and towns shall be made at the times provided under section 298.27.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005.

Sec. 18. Minnesota Statutes 2003 Supplement, section 127A.47, subdivision 7, is amended to read:

Subd. 7. **[ALTERNATIVE ATTENDANCE PROGRAMS.]** The general education aid for districts must be adjusted for each pupil attending a nonresident district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.08, and 124D.68. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the referendum equalization aid attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision must be increased by an amount equal to the referendum equalization aid attributable to the pupil in the nonresident district.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) The district of residence must pay tuition to a district or an area learning center, operated according to paragraph (e), providing special instruction and services to a pupil with a disability, as defined in section 125A.02, or a pupil, as defined in section 125A.51, who is enrolled in a program listed in this subdivision. The tuition must be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for debt service and for capital expenditure facilities and equipment, and debt service but not including any amount for transportation, minus (2) the amount of general education revenue and special education aid but not including any amount for transportation, attributable to that pupil, that is received by the district providing special instruction and services.

(e) An area learning center operated by a service cooperative, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge the resident district tuition for pupils rather than to have the general education revenue paid to a fiscal agent school district. Except as provided in paragraph (d), the district of residence must pay tuition equal to at least 90 percent of the district average general education revenue per pupil unit minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, calculated without basic skills revenue and transportation sparsity revenue, times the number of pupil units for pupils attending the area learning center, plus the amount of compensatory basic skills revenue generated by pupils attending the area learning center.

Sec. 19. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 2, is amended to read:

Subd. 2. [GENERAL EDUCATION AID.] For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

\$4,764,384,000	\$4,726,466,000	.....	2004
\$5,090,303,000	\$5,020,210,000	.....	2005

The 2004 appropriation includes \$857,432,000 \$860,552,000 for 2003 and \$3,906,952,000 \$3,865,914,000 for 2004.

The 2005 appropriation includes \$1,009,856,000 \$1,009,822,000 for 2004 and \$4,080,447,000 \$4,010,388,000 for 2005.

Sec. 20. [COMPENSATORY REVENUE ALLOCATION; TEST SCORE PILOT PROGRAM.]

Subdivision 1. [PILOT PROGRAM CREATED.] A three-year pilot program is created to allow school districts to allocate compensatory revenue received under Minnesota Statutes, section 126C.10, subdivision 3, among its school buildings according to each building's test scores.

Subd. 2. [APPLICATION PROCESS.] A school district that seeks to allocate its compensatory revenue to school sites based on student performance may submit an application to the commissioner of education by August 1, 2004. The application must include a written resolution approved by the school board that: (1) identifies the test results that will be used to assess student performance; (2) describes the method for distribution of compensatory revenue to the school sites; and (3) summarizes the evaluation procedure the district will use to determine if the redistribution of compensatory revenue improves overall student performance. The application must be submitted in the form and manner specified by the commissioner.

Subd. 3. [COMMISSIONER SELECTION.] The commissioner shall select school districts to participate in the pilot program. The commissioner must notify the selected school districts by August 31, 2004.

Subd. 4. [REPORT.] The commissioner of education must submit a report by February 15, 2007, to the education committees of the legislature evaluating the effectiveness of the pilot program.

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

Sec. 21. [KINDERGARTEN REPORTING.]

Notwithstanding Minnesota Statutes, sections 120A.05, subdivision 18; 120A.20, subdivision 1; and 124D.02, subdivision 1, pupils four or five years of age on September 1 of the calendar year in which the school year commences and enrolled in a prekindergarten program implemented by the district before July 1, 2003, may be reported as kindergarten pupils under Minnesota Statutes, section 126C.05, subdivision 1, for fiscal years 2004 and earlier.

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

ARTICLE 2
EDUCATION EXCELLENCE

Section 1. [120B.362] [VALUE-ADDED ASSESSMENT PROGRAM.]

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

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

Sec. 2. [125B.30] [TECHNOLOGY INNOVATION GRANTS.]

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

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

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

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

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

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

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

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

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

- (6) a plan to provide adequate insurance coverage for the computer equipment;
- (7) a policy for appropriate use of computer equipment for students;
- (8) a plan to provide ongoing technical support for the computer equipment; and
- (9) a plan for providing low-cost or free Internet access to students.

Subd. 3. [DEPARTMENT OF EDUCATION.] (a) The department, in consultation with the Minnesota Education Telecommunications Council, shall develop, implement, and operate the technology innovation grant program and make program grants.

(b) The department, in consultation with the Minnesota Education Telecommunications Council, shall award grants under this section using at least \$1,500,000 from the eligible funds under the federal Department of Education, title II, part D, educational technology grant funds. The department shall consider regional diversity in awarding grants.

(c) The department, in consultation with the Minnesota Education Telecommunications Council, shall select a program partner through a request for proposals process for a total learning technology package that includes, but is not limited to, a wireless computing device, software, professional development, service and support, and for management for the overall implementation of the technology innovation grant program.

(d) The commissioner shall report annually by March 1 during the program, with a final report due by March 1, 2009, to the house of representatives and senate committees having jurisdiction over education on the progress of the program, including at least: improvement in student achievement, the effect of integrating innovative technology resources on closing the achievement gap, and the cost-benefits of using innovative technology learning resources as compared to traditional learning resources.

Sec. 3. [127A.095] [IMPLEMENTATION OF NO CHILD LEFT BEHIND ACT.]

Subdivision 1. [CONTINUED IMPLEMENTATION.] The Department of Education shall continue to implement the federal No Child Left Behind Act, Public Law 107-110, without interruption until June 30, 2005.

Subd. 2. [NO CHILD LEFT BEHIND NULLIFICATION.] (a) The consolidated state plan submitted by the state to the federal Department of Education on implementing the No Child Left Behind Act, Public Law 107-110, and any other Minnesota state contract or agreement under the provisions of the No Child Left Behind Act, shall be nullified and revoked by the commissioner of education on July 1, 2005.

(b) The commissioner shall report to the education funding divisions and the education policy committees of the house of representatives and the senate by April 1, 2005, that the following conditions have been met:

(1) the Department of Education has received approval from the federal Department of Education to allow the state to use a value-added measurement of student achievement for determining adequate yearly progress;

(2) the Department of Education has developed a plan and model legislation to ensure that if an adequate yearly progress determination was made in error, that the error will not adversely affect the school's or school district's sanction status in subsequent years. The Department of Education must have a policy in place to correct errors to accountability reports;

(3) the Department of Education shall report the additional costs for state fiscal years 2005 to 2008 that the No Child Left Behind Act imposes on the state, the state's school districts, and charter schools, which are in excess of costs associated with the Improving America's Schools Act of 1994, Public Law 103-382;

(4) the Department of Education shall identify new federal funds provided by the No Child Left Behind Act, which are sufficient to meet the additional mandates imposed by the act;

(5) the department has received approval from the federal Department of Education to exclude from sanctions schools that have not made adequate yearly progress solely due to a subgroup of students with disabilities not testing at a proficient level;

(6) the Department of Education has received approval from the federal Department of Education to exclude from sanctions a school that is classified as not having made adequate yearly progress solely due to different subgroups testing below proficient levels for at least two consecutive years;

(7) the department has developed a plan and model legislation to monitor the quality of results achieved by supplemental service providers that have been approved by the department;

(8) the department has implemented a uniform financial reporting system for school districts to report costs related to implementing No Child Left Behind Act requirements, including the costs of complying with sanctions; and

(9) the department has developed a plan and model legislation for imposing sanctions on school sites that have not made adequate yearly progress for four or more consecutive years, including the criteria used for imposing different sanctions for different school sites.

(c) The state's continued implementation of the No Child Left Behind Act shall be discontinued effective July 1, 2005, unless the legislature passes a joint resolution during the 2005 regular legislative session establishing the legislature's satisfaction that the requirements under paragraph (b) have been met.

Subd. 3. [DEPARTMENT OF FINANCE CERTIFICATION.] If the legislature does not pass a joint resolution authorizing continued implementation of the No Child Left Behind Act under subdivision 2, paragraph (c), the commissioner of finance shall certify and report to the legislature beginning January 1, 2006, and each year thereafter the amount of federal revenue, if any, that has been withheld by the federal government as a result of the state's discontinued implementation of the No Child Left Behind Act. The report shall also specify the intended purpose of the federal revenue and the amount of revenue withheld from the state, each school district, and each charter school in each fiscal year.

Subd. 4. [ANNUAL CONTINGENT APPROPRIATION.] For fiscal year 2006 and each fiscal year thereafter, an amount equal to the federal funds withheld in the same fiscal year as a result of the state's discontinued implementation of the No Child Left Behind Act, as certified by the commissioner of finance under subdivision 3, is appropriated from the general fund to the commissioner of education. The commissioner of education shall allocate the appropriation under this section according to the report from the commissioner of finance in subdivision 3.

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 127A.47, subdivision 8, is amended to read:

Subd. 8. [CHARTER SCHOOLS.] (a) The general education aid for districts must be adjusted for each pupil attending a charter school under section 124D.10. The adjustments must be made according to this subdivision.

(b) General education aid paid to a district in which a charter school not providing transportation according to section 124D.10, subdivision 16, is located must be increased by an amount equal to the sum of:

(1) the product of: (1) (i) the sum of an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0485, plus the transportation sparsity allowance for the district; times (2) (ii) the adjusted marginal cost pupil units attributable to the pupil, plus

(2) the product of \$223 times the extended time marginal cost pupil units attributable to the pupil.

Sec. 5. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 15, is amended to read:

Subd. 15. [BEST PRACTICES SEMINARS.] For best practices seminars and other professional development capacity building activities that assure proficiency in teaching and implementation of graduation rule standards:

\$1,000,000	.....	2004
\$1,000,000	.....	2005

\$250,000 per year is for a grant to A Chance to Grow/New Visions for the Minnesota learning resource center's comprehensive training program for education professionals charged with helping children acquire basic reading and math skills. In fiscal year 2005 only, \$250,000 is for the Minnesota Humanities Commission.

Sec. 6. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 16, is amended to read:

Subd. 16. [ALTERNATIVE TEACHER COMPENSATION.] For alternative teacher compensation established under Minnesota Statutes, sections 122A.413 to 122A.415:

\$3,700,000	.....	2004
\$3,700,000	.....	2005

If the appropriations under this subdivision are insufficient to fund all program participants, a participant may receive less than the maximum per pupil amount available under Minnesota Statutes, section 122A.415, subdivision 1. A qualifying district or site receiving alternative teacher compensation funding under this subdivision may use the funding it receives to leverage additional funds from a national program for enhancing teacher professionalism.

Any balance in the first year does not cancel but is available in the second year. The base appropriation for this program is \$2,600,000 for fiscal years 2006 and 2007.

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

Sec. 7. [GRANTS FOR SITE-BASED ACHIEVEMENT CONTRACTS.]

Subdivision 1. [ELIGIBLE SCHOOLS.] (a) The commissioner of education shall award grants to public school sites to increase student achievement and eliminate the achievement gap at the school site.

(b) The commissioner shall select sites that meet the following criteria:

- (1) have at least 75 percent of their enrollment eligible for free or reduced-price lunch;
- (2) have an enrollment where at least 75 percent of the students are students of color; and
- (3) have failed to meet adequate yearly progress for at least two consecutive years.

(c) In order to be eligible for a grant under this section, a public school site shall have an approved site decision-making agreement under Minnesota Statutes, section 123B.04, including an achievement contract under Minnesota Statutes, section 123B.04, subdivision 4. The site decision-making team shall include the principal of the school site.

(d) The site team shall have a plan approved by the school board and shall also have an agreement with the exclusive bargaining unit of the district to participate in this grant program.

Subd. 2. [APPLICATION.] (a) The applicant shall submit a plan that will result in at least 80 percent of the students at the site testing at a proficient level for their grade by the end of the grant period of six years, with at least 60 percent of the students testing at a proficient level for their grade at the midpoint of the grant period.

(b) The site team shall include in its application a detailed plan for using multiple objective and measurable methods for tracking student achievement during the duration of the grant and shall also include curriculum and academic requirements that are rigorous and challenging for all students. The site shall have the ability to return timely test data to teachers and have a plan that demonstrates that the teachers at the site can use the data to help improve curriculum as well as monitor student achievement.

(c) The applicant shall have in its site-based plan an agreement between the district and the exclusive bargaining unit of the district that would give the site-based team increased stability in the placement of teachers at the site. The applicant shall include other innovative site-based personnel decision-making items in its agreement that may include, but are not limited to: hiring bonuses, additional ongoing collaborative preparation time, on-site staff development, hiring additional staff, and performance-based incentives.

(d) The site team shall also include in its application a plan for a greater involvement of parents and the community in the school, a plan for ensuring that each student at the site can develop a meaningful relationship with at least one teacher at the school site, and a clear approach to school safety, including promoting respect for students and teachers.

Subd. 3. [GRANT AWARDS.] (a) The commissioner shall award grants to a school site in three parts: one-third of the total grant amount is awarded at the beginning of the grant agreement; one-third is awarded at the midpoint of the grant agreement if the site has met the achievement goals established in subdivision 2, paragraph (a); and one-third is awarded upon the completion of the grant agreement if the site has met the achievement goals established in subdivision 2, paragraph (a).

(b) The total grant award for a school site shall be at least \$150,000 and shall not exceed \$500,000. The commissioner shall determine the grant amount based on the number of students enrolled at the site.

(c) The commissioner shall determine all other aspects of the application and grant award process consistent with this section.

Subd. 4. [REPORT.] The commissioner shall report annually by March 1 during the program, with a final report due by January 15, 2011, to the house of representatives and senate committees having jurisdiction over education on the progress of the program, including at least: improvement in student achievement, the effect of innovative personnel decision making on closing the achievement gap, and the characteristics of highly effective teachers.

Subd. 5. [APPROPRIATION BASE.] The base appropriation for this program is \$500,000 for fiscal years 2006 and 2007.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to the 2005-2006 through 2009-2010 school years.

Sec. 8. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. [VALUE ADDED ASSESSMENT.] For the value-added assessment program:

<u>\$250,000</u>	<u>.....</u>	<u>2005</u>
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This is a onetime appropriation.

ARTICLE 3

FACILITIES; NUTRITION; ACCOUNTING; OTHER PROGRAMS

Section 1. Minnesota Statutes 2003 Supplement, section 16A.152, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL REVENUES; PRIORITY.] (a) If on the basis of a forecast of general fund revenues and expenditures, the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the following accounts and purposes in priority order:

(1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000; and

(2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;

(3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent, excluding special education excess cost aid under section 125A.79; and

(4) the amount necessary to eliminate all or a portion of the property tax revenue recognition shift in section 123B.75, subdivision 5.

(b) The amounts necessary to meet the requirements of this section are appropriated from the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.

(c) To the extent that a positive unrestricted budgetary general fund balance is projected, appropriations under this section must be made before any transfer is made under section 16A.1522.

(d) The commissioner of finance shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter.

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

Sec. 2. Minnesota Statutes 2002, section 123B.12, is amended to read:

123B.12 [INSUFFICIENT FUNDS TO PAY ORDERS.]

(a) In the event that a district or a cooperative unit defined in section 123A.24, subdivision 2, has insufficient funds to pay its usual lawful current obligations, subject to section 471.69, the board may enter into agreements with banks or any person to take its orders. Any order drawn, after having been presented to the treasurer for payment and not paid for want of funds shall be endorsed by the treasurer by putting on the back thereof the words "not paid for want of funds," giving the date of endorsement and signed by the treasurer. A record of such presentment, nonpayment and endorsement shall be made by the treasurer. The treasurer shall serve a written notice upon the payee or the payee's assignee, personally, or by mail, when the treasurer is prepared to pay such orders. The notice may be directed to the payee or the payee's assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice. No order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice.

(b) A district may enter, subject to section 471.69, into a line of credit agreement with a financial institution. The amount of credit available must not exceed 95 percent of average expenditure per month of operating expenditures in the previous fiscal year. Any amount advanced must be repaid no later than 45 180 days after the day of advancement.

Sec. 3. Minnesota Statutes 2003 Supplement, section 123B.54, is amended to read:

123B.54 [DEBT SERVICE APPROPRIATION.]

(a) ~~\$25,987,000 in fiscal year 2002, \$29,941,000 in fiscal year 2003, \$40,075,000 in fiscal year 2004, and \$39,774,000 in fiscal year 2005, \$27,830,000 in fiscal year 2006, and \$24,872,000 in fiscal year 2007 and later~~ are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 124D.1158, subdivision 3, is amended to read:

Subd. 3. [PROGRAM REIMBURSEMENT.] Each school year, the state must reimburse each participating school 30 cents for each reduced price breakfast and ~~55~~ 81 cents for each fully paid breakfast.

Sec. 5. Minnesota Statutes 2003 Supplement, section 124D.118, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT.] In accordance with program guidelines, the commissioner shall reimburse each participating public or nonpublic school ~~nine~~ 14 cents for each half-pint of milk that is served to kindergarten students and is not part of a school lunch or breakfast reimbursed under section 124D.111 or 124D.1158.

Sec. 6. Minnesota Statutes 2003 Supplement, section 126C.63, subdivision 8, is amended to read:

Subd. 8. [MAXIMUM EFFORT DEBT SERVICE LEVY.] (a) "Maximum effort debt service levy" means the lesser of:

(1) a levy in whichever of the following amounts is applicable:

(i) in any district receiving a debt service loan for a debt service levy payable in 2002 and thereafter, or granted a capital loan after January 1, 2002, a levy in total dollar amount computed at a rate of 40 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter;

(ii) in any district receiving a debt service loan for a debt service levy payable in 2001 or earlier, or granted a capital loan before January 2, ~~2001~~ 2002, a levy in a total dollar amount computed at a rate of ~~32~~ 28 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter; or

(2) a levy in any district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted.

(b) The board in any district affected by the provisions of paragraph (a), clause (2), may elect instead to determine the amount of its levy according to the provisions of paragraph (a), clause (1). If a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of paragraph (a), clause (2), the liability of the district for the amount of the difference between the amount it levied under paragraph (a), clause (2), and the amount it would have levied under paragraph (a), clause (1), and for interest on the amount of that difference, must not be satisfied and discharged pursuant to Minnesota Statutes 1988, or an earlier edition of Minnesota Statutes if applicable, section 124.43, subdivision 4.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005.

Sec. 7. Minnesota Statutes 2002, section 128D.11, subdivision 9, is amended to read:

Subd. 9. [NET DEBT DEFINED.] The net debt of the school district for the purposes of this limitation is the amount of bonds less the amount of all money and the face value of all securities then held as a sinking fund for the payment of such bonds, and shall not include school aid and tax anticipation certificates of indebtedness not in default or bonds issued to pay pension fund liabilities under section 475.52, subdivision 6.

Sec. 8. Laws 2003, First Special Session chapter 9, article 4, section 29, is amended to read:

Sec. 29. [GARAGE LEASE LEVY; SARTELL.]

For taxes payable in 2004, 2005, and 2006, independent school district No. 740 748, Sartell, may levy up to \$107,000 each year for the purpose of leasing a school bus storage facility. For taxes payable in 2007, Independent School District No. 748, Sartell, may levy up to \$115,000 for the purpose of leasing a school bus storage facility. The department of education shall include ~~this levy~~ these levies in the calculation of eligible building lease levy under Minnesota Statutes, section 126C.40, subdivision 1. ~~This levy~~ These levies shall not allow the district to exceed the \$100 per resident marginal cost pupil unit cap in that section. The district is eligible to make ~~this levy~~ these levies only if it sells its current school bus storage site to the city of Sartell and the district may not use ~~this levy~~ these levies as part of a lease purchase agreement to replace its current school bus storage facility.

Sec. 9. Laws 2003, First Special Session chapter 9, article 5, section 35, subdivision 3, is amended to read:

Subd. 3. [TRADITIONAL SCHOOL BREAKFAST; KINDERGARTEN MILK.] For traditional school breakfast aid and kindergarten milk under Minnesota Statutes, sections 124D.1158 and 124D.118:

\$3,088,000	<u>\$4,382,000</u>	.....	2004
\$3,217,000	<u>\$6,282,000</u>	.....	2005

Sec. 10. Laws 2003, First Special Session chapter 9, article 6, section 4, is amended to read:

Sec. 4. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SYSTEM SUPPORT.] For basic system support grants under Minnesota Statutes, section 134.355:

\$8,072,000	<u>\$8,312,000</u>	.....	2004
\$8,570,000	.....	.....	2005

The 2004 appropriation includes \$1,456,000 for 2003 and ~~\$6,616,000~~ \$6,856,000 for 2004.

The 2005 appropriation includes ~~\$1,654,000~~ \$1,714,000 for 2004 and ~~\$6,916,000~~ \$6,856,000 for 2005.

Subd. 3. [REGIONAL LIBRARY TELECOMMUNICATIONS AID.] For regional library telecommunications aid under Minnesota Statutes, section 134.355:

\$1,200,000	<u>\$960,000</u>	.....	2004
\$1,200,000	.....	.....	2005

The 2004 appropriation includes \$960,000 for 2004.

The 2005 appropriation includes \$240,000 for 2004 and \$960,000 for 2005.

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

Sec. 11. [FORECASTING THE BASE BUDGET FOR EDUCATION.]

Notwithstanding Minnesota Statutes 2003 Supplement, section 16A.11, subdivision 3, paragraph (b), the appropriation base for fiscal years 2006 and 2007 for each forecast program with an appropriation in this act or in Laws 2003, First Special Session chapter 9, is the forecast appropriation level needed to fully fund that program.

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

Sec. 12. [FUND TRANSFERS.]

Subdivision 1. [FUND TRANSFER, FOLEY.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 51, Foley, may permanently transfer up to \$190,000 from its reserved operating capital account in its general fund to the undesignated general fund balance.

Subd. 2. [FUND TRANSFER, KIMBALL.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 739, Kimball, may permanently transfer up to \$150,000 from its reserved account for bus purchase, or any successor account, to its undesignated general fund balance.

Subd. 3. [FUND TRANSFER, BUTTERFIELD.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, for calendar years 2004 through 2006, on June 30 of each year, Independent School District No. 836, Butterfield, may permanently transfer up to \$50,000 from its reserved operating capital account in its general fund to its undesignated general fund balance and \$60,000 from its reserved bus purchase account in its general fund to its undesignated general fund balance. The total amount transferred for the three-year period must not total more than \$50,000 from the reserved operating capital account and \$60,000 from the reserved bus purchase account.

Subd. 4. [FUND TRANSFER, MCLEOD WEST.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 2887, McLeod West, may permanently transfer up to \$200,000 from its reserved operating capital account in its general fund to the undesignated fund balance.

Subd. 5. [FUND TRANSFER, M.A.C.C.R.A.Y.] (a) Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, upon approval of the commissioner of education, Independent School District No. 2180, M.A.C.C.R.A.Y., may permanently transfer up to \$230,000 from its reserved account for handicapped access to its undesignated general fund balance.

(b) Prior to making the fund transfer, Independent School District No. 2180, M.A.C.C.R.A.Y., must demonstrate to the commissioner's satisfaction that the district's school buildings are accessible to students and employees with disabilities.

Subd. 6. [FUND TRANSFER, NORTHEAST METRO.] Notwithstanding Minnesota Statutes, sections 123B.79; 123B.80; and 475.61, subdivision 4, on June 30, 2004, Intermediate School District No. 916, Northeast Metro, may permanently transfer up to \$240,000 from its debt redemption fund to its capital account in its general fund without making a levy reduction.

Subd. 7. [FUND TRANSFER, PILLAGER.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, Independent School District No. 116, Pillager, on June 30, 2004, may permanently transfer up to \$100,000 from its debt redemption fund to its general fund without making a levy reduction.

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

Sec. 13. [MAXIMUM EFFORT CAPITAL LOAN FORGIVEN; EAST CENTRAL.]

Subdivision 1. [SALE REQUIREMENTS.] Independent School District No. 2580, East Central, may sell its middle school building in accordance with Minnesota Statutes, section 16A.695. The net proceeds from the sale of the property must be paid to the commissioner of finance and deposited in the state bond fund.

Subd. 2. [OUTSTANDING LOAN BALANCE FORGIVEN.] Any remaining outstanding balance on the maximum effort capital loan issued in January 1982 to former Independent School District No. 566, Askov, after the application of the sale proceeds according to subdivision 1, is forgiven.

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

Sec. 14. [SCHOOL BUS LOAN; CARPENTER SCHOOL BUSES.]

Subdivision 1. [BUS LOAN REVENUE.] In fiscal year 2005, only a school district may receive bus loan revenue equal to up to \$30,000 times the number of Carpenter school buses in its fleet between March 30, 2003, and March 30, 2004, that have been determined to have potentially defective welds and are subject to the limitations imposed by the Department of Public Safety. A school district that is eligible to receive revenue under this subdivision must approve a board resolution to receive revenue according to this section.

Subd. 2. [LEVY.] For taxes payable in 2005 through 2008, a school district that received revenue under subdivision 1 must levy an amount equal to its bus loan revenue times .25.

Subd. 3. [GENERAL EDUCATION REVENUE WITHHOLDING.] For fiscal years 2006 through 2009, the Department of Education shall reduce the general education aid under Minnesota Statutes, section 126C.13, subdivision 4, for each district that received revenue under subdivision 1 in an amount equal to the district's bus loan revenue times .25.

Sec. 15. [SUPPLEMENTARY LEVY AUTHORITY.]

(a) For taxes payable in 2005, 2006, and 2007 only, each school district, upon approval of a school board resolution, may levy up to \$12 times the adjusted marginal cost pupil units annually for one or more of the following uses:

- (1) outstanding disability access projects;
- (2) one-time health- and safety-related projects that are not eligible for health and safety revenue under Minnesota Statutes, section 123B.57;
- (3) outstanding construction deficit costs of school facilities shared with the community;
- (4) utility and other costs of operating a district-owned community center where the district colocates services with other local units of government, in proportion to the amount of time the district uses the facility;
- (5) the district's share of the costs of building noninstructional facilities that will be operated in cooperation with other local units of government;
- (6) the cost of leasing school-related storage facilities;
- (7) the costs associated with leases of administrative and classroom space shared with other school districts or higher education institutions;
- (8) outstanding building lease levy amounts under Minnesota Statutes, section 126C.40, subdivision 1; outstanding unemployment insurance amount under Minnesota Statutes, section 126C.43, subdivision 2; outstanding amount necessary for judgments against the district under Minnesota Statutes, section 126C.43, subdivision 3; and additional costs under the safe schools levy under Minnesota Statutes, section 126C.44;
- (9) a school district whose total concentration of free and reduced lunch students increased between fiscal year 2003 and 2004, may utilize the revenue under this section, according to Minnesota Statutes, section 126C.13, subdivision 5;
- (10) retired employee health benefits; or
- (11) other district deferred maintenance projects or capital projects eligible under Minnesota Statutes, section 126C.10, subdivision 14.

(b) In a form and manner determined by the Department of Education, each district shall submit to the department the amounts levied under this section for each category in paragraph (a).

(c) The Department of Education shall not include the district levy amounts under this section in the calculation of eligible building lease levy under Minnesota Statutes, section 126C.40, subdivision 1.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005, 2006, and 2007.

Sec. 16. [TAX BASE ADJUSTMENTS, FERTILE-BELTRAMI.]

(a) The commissioner of education, when making offsetting levy adjustments between levy categories to ensure that each levy category is positive for Independent School District No. 599, Fertile-Beltrami, shall make such adjustments first between levy categories that are imposed on identical tax bases before making such adjustments between levy categories that are imposed on different tax bases. The commissioner may make offsetting levy adjustments between the general fund and the debt service fund, if necessary.

(b) The commissioner of education must make the offsetting levy adjustments according to the process in paragraph (a) until Independent School District No. 599, Fertile-Beltrami's current referendum authority, under Minnesota Statutes, section 126C.17, expires.

Sec. 17. [TELECOMMUNICATIONS/INTERNET ACCESS EQUITY AID.]

Subdivision 1. [COSTS TO BE SUBMITTED.] (a) A district or charter school shall submit its actual telecommunications/Internet access costs for the previous fiscal year, adjusted for any e-rate revenue received, to the department by August 15 of each year as prescribed by the commissioner. Costs eligible for reimbursement under this program are limited to the following:

(1) ongoing or recurring telecommunications/Internet access costs associated with Internet access, data lines, and video links providing:

(i) the equivalent of one data line, video link, or integrated data/video link that relies on a transport medium that operates at a speed of 1.544 megabytes per second (T1) for each elementary school, middle school, or high school under Minnesota Statutes, section 120A.05, subdivisions 9, 11, and 13; including the recurring telecommunications line lease costs and ongoing Internet access service fees; or

(ii) the equivalent of one data line or video circuit, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each district; including recurring telecommunications line lease costs and ongoing Internet access service fees;

(2) recurring costs of contractual or vendor-provided maintenance on the school district's wide area network to the point of presence at the school building up to the router, codec, or other service delivery equipment located at the point of presence termination at the school or school district;

(3) recurring costs of cooperative, shared arrangements for regional delivery of telecommunications/Internet access between school districts, postsecondary institutions, and public libraries including network gateways, peering points, regional network infrastructure, Internet2 access, and network support, maintenance, and coordination; and

(4) service provider installation fees for installation of new telecommunications lines or increased bandwidth.

(b) Costs not eligible for reimbursement under this program include:

(1) recurring costs of school district staff providing network infrastructure support;

(2) recurring costs associated with voice and standard telephone service;

(3) costs associated with purchase of network hardware, telephones, computers, or other peripheral equipment needed to deliver telecommunications access to the school or school district;

(4) costs associated with laying fiber for telecommunications access;

(5) costs associated with wiring school or school district buildings;

(6) costs associated with purchase and/or installation of Internet filtering; and

(7) costs associated with digital content, including on-line learning or distance learning programming, and information databases.

Subd. 2. [E-RATES.] To be eligible for aid under this section, a district or charter school is required to file an e-rate application either separately or through its telecommunications access cluster and to have a current technology plan on file with the Department of Education. Discounts received on telecommunications expenditures shall be reflected in the costs submitted to the department for aid under this section.

Subd. 3. [REIMBURSEMENT CRITERIA.] The commissioner shall develop criteria for approving costs submitted by school districts and charter schools under subdivision 1.

Subd. 4. [DISTRICT AID.] For fiscal year 2005 and later, a district or charter school's Internet access equity aid equals 90 percent of the district or charter school's approved cost for the previous fiscal year according to subdivision 1 exceeding \$15 times the district's adjusted marginal cost pupil units for the previous fiscal year.

Subd. 5. [TELECOMMUNICATIONS/INTERNET ACCESS SERVICES FOR NONPUBLIC SCHOOLS.] (a) Districts shall provide each year upon formal request by or on behalf of a nonpublic school, not including home schools, located in that district or area, ongoing or recurring telecommunications access services to the nonpublic school either through existing district providers or through separate providers.

(b) The amount of district aid for telecommunications access services for each nonpublic school under this subdivision equals the lesser of:

(1) 90 percent of the nonpublic school's approved cost for the previous fiscal year according to subdivision 1 exceeding \$10 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year; or

(2) the product of the district's aid per adjusted marginal cost pupil unit according to subdivision 4 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year.

(c) For purposes of this subdivision, nonpublic school pupils shall be weighted by grade level using the weighing factors defined in Minnesota Statutes, section 126C.05, subdivision 1.

(d) Each year, a district providing services under paragraph (a) may claim up to five percent of the aid determined in paragraph (b) for costs of administering this subdivision. No district may expend an amount for these telecommunications access services which exceeds the amount allocated under this subdivision. The nonpublic school is responsible for the Internet access costs not covered by this section.

(e) At the request of a nonpublic school, districts may allocate the amount determined in paragraph (b) directly to the nonpublic school to pay for or offset the nonpublic school's costs for telecommunications access services, however, the amount allocated directly to the nonpublic school may not exceed the actual amount of the school's ongoing or recurring telecommunications access costs.

Subd. 6. [SEVERABILITY.] If any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.

Sec. 18. [APPROPRIATIONS.]

(k) The appropriation base for the Department of Education is \$21,147,000 for fiscal years 2006 and 2007.

Sec. 3. Laws 2003, First Special Session chapter 9, article 10, section 11, is amended to read:

Sec. 11. [APPROPRIATIONS; MINNESOTA STATE ACADEMIES.]

The sums indicated in this section are appropriated from the general fund to the Minnesota state academies for the deaf and the blind for the fiscal years designated:

\$10,466,000	.....	2004
\$10,466,000	.....	2005

Any balance in the first year does not cancel but is available in the second year. The appropriation base for the Minnesota State Academies for the Deaf and Blind is \$10,435,000 for fiscal years 2006 and 2007.

Sec. 4. Laws 2003, First Special Session chapter 9, article 10, section 12, is amended to read:

Sec. 12. [APPROPRIATIONS; PERPICH CENTER FOR ARTS EDUCATION.]

The sums indicated in this section are appropriated from the general fund to the Perpich center for arts education for the fiscal years designated:

\$6,864,000	.....	2004
\$6,423,000	.....	2005

Any balance in the first year does not cancel but is available in the second year. The appropriation base for the Perpich Center for Arts Education is \$6,393,000 for fiscal years 2006 and 2007.

Sec. 5. [ELECTION OF UNEMPLOYMENT INSURANCE COVERAGE; PERPICH CENTER FOR ARTS EDUCATION.]

The director of the Perpich Center for Arts Education must file with the commissioner of employment and economic development under Minnesota Statutes, section 268.042, a written election to make employment in a position authorized by Minnesota Statutes, section 43A.08, subdivision 1a, covered employment for the years 2002 and 2003. The commissioner is authorized to and must give approval to the application retroactive for the years 2002 and 2003.

[EFFECTIVE DATE.] This section is effective retroactively from January 1, 2002.

ARTICLE 5

KINDERGARTEN THROUGH GRADE 12 EDUCATION

FORECAST ADJUSTMENTS

A. GENERAL EDUCATION

Section 1. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 3, is amended to read:

Subd. 3. [REFERENDUM TAX BASE REPLACEMENT AID.] For referendum tax base replacement aid under Minnesota Statutes, section 126C.17, subdivision 7a:

<u>\$7,841,000</u>	<u>\$8,096,000</u>	.....	2004
<u>\$8,543,000</u>	<u>\$8,596,000</u>	.....	2005

The 2004 appropriation includes \$1,419,000 for 2003 and ~~\$6,422,000~~ \$6,677,000 for 2004.

The 2005 appropriation includes ~~\$1,605,000~~ \$1,669,000 for 2004 and ~~\$6,938,000~~ \$6,927,000 for 2005.

Sec. 2. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 5, is amended to read:

Subd. 5. [ABATEMENT REVENUE.] For abatement aid under Minnesota Statutes, section 127A.49:

\$2,680,000	<u>\$2,436,000</u>	.....	2004
\$2,937,000	<u>\$1,559,000</u>	.....	2005

The 2004 appropriation includes \$472,000 for 2003 and ~~\$2,208,000~~ \$1,964,000 for 2004.

The 2005 appropriation includes ~~\$551,000~~ \$491,000 for 2004 and ~~\$2,386,000~~ \$1,068,000 for 2005.

Sec. 3. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 6, is amended to read:

Subd. 6. [CONSOLIDATION TRANSITION.] For districts consolidating under Minnesota Statutes, section 123A.485:

\$207,000	<u>\$ 35,000</u>	.....	2004
\$607,000	<u>\$145,000</u>	.....	2005

The 2004 appropriation includes \$35,000 for 2003 and ~~\$172,000~~ \$0 for 2004.

The 2005 appropriation includes ~~\$42,000~~ \$0 for 2004 and ~~\$565,000~~ \$145,000 for 2005.

Sec. 4. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 11, is amended to read:

Subd. 11. [NONPUBLIC PUPIL AID.] For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

\$14,626,000	<u>\$14,411,000</u>	.....	2004
\$15,594,000	<u>\$15,072,000</u>	.....	2005

The 2004 appropriation includes \$2,715,000 for 2003 and ~~\$11,911,000~~ \$11,696,000 for 2004.

The 2005 appropriation includes ~~\$2,977,000~~ \$2,923,000 for 2004 and ~~\$12,617,000~~ \$12,149,000 for 2005.

Sec. 5. Laws 2003, First Special Session chapter 9, article 1, section 53, subdivision 12, is amended to read:

Subd. 12. [NONPUBLIC PUPIL TRANSPORTATION.] For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

\$21,477,000	<u>\$20,471,000</u>	.....	2004
\$21,982,000	<u>\$21,421,000</u>	.....	2005

The 2004 appropriation includes \$3,990,000 for 2003 and ~~\$17,487,000~~ \$16,481,000 for 2004.

The 2005 appropriation includes ~~\$4,371,000~~ \$4,120,000 for 2004 and ~~\$17,611,000~~ \$17,301,000 for 2005.

B. EDUCATION EXCELLENCE

Sec. 6. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 2, is amended to read:

Subd. 2. [CHARTER SCHOOL BUILDING LEASE AID.] For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

\$17,140,000	<u>\$16,753,000</u>	.....	2004
\$21,018,000	<u>\$21,347,000</u>	.....	2005

The 2004 appropriation includes \$2,524,000 for 2003 and ~~\$14,616,000~~ \$14,229,000 for 2004.

The 2005 appropriation includes ~~\$3,654,000~~ \$3,557,000 for 2004 and ~~\$17,364,000~~ \$17,790,000 for 2005.

Sec. 7. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 3, is amended to read:

Subd. 3. [CHARTER SCHOOL STARTUP AID.] For charter school startup cost aid under Minnesota Statutes, section 124D.11:

\$824,000	<u>\$844,000</u>	.....	2004
\$151,000	<u>\$156,000</u>	.....	2005

The 2004 appropriation includes \$220,000 for 2003 and ~~\$604,000~~ \$624,000 for 2004.

The 2005 appropriation includes ~~\$151,000~~ \$156,000 for 2004 and \$0 for 2005.

Sec. 8. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 4, is amended to read:

Subd. 4. [CHARTER SCHOOL INTEGRATION GRANTS.] For grants to charter schools to promote integration and desegregation under Minnesota Statutes, section 124D.11, subdivision 6, paragraph (e):

\$8,000	<u>\$7,000</u>	2004
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This appropriation includes ~~\$8,000~~ \$7,000 for 2003 and \$0 for 2004.

Sec. 9. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 5, is amended to read:

Subd. 5. [INTEGRATION AID.] For integration aid under Minnesota Statutes, section 124D.86, subdivision 5:

\$56,869,000	<u>\$55,911,000</u>	.....	2004
\$56,092,000	<u>\$55,893,000</u>	.....	2005

The 2004 appropriation includes \$8,428,000 for 2003 and ~~\$48,441,000~~ \$47,483,000 for 2004.

The 2005 appropriation includes ~~\$12,110,000~~ \$11,870,000 for 2004 and ~~\$43,982,000~~ \$44,023,000 for 2005.

Sec. 10. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 7, is amended to read:

Subd. 7. [MAGNET SCHOOL STARTUP AID.] For magnet school startup aid under Minnesota Statutes, section 124D.88:

\$37,000	.....	2004
\$454,000	<u>\$40,000</u>	..... 2005

The 2004 appropriation includes \$37,000 for 2003 and \$0 for 2004.

The 2005 appropriation includes \$0 for 2004 and ~~\$437,000~~ \$40,000 for 2005.

Sec. 11. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 9, is amended to read:

Subd. 9. [SUCCESS FOR THE FUTURE.] For American Indian success for the future grants under Minnesota Statutes, section 124D.81:

\$2,073,000 <u>\$2,061,000</u>	.....	2004
\$2,137,000	.....	2005

The 2004 appropriation includes ~~\$363,000~~ \$351,000 for 2003 and \$1,710,000 for 2004.

The 2005 appropriation includes \$427,000 for 2004 and \$1,710,000 for 2005.

Sec. 12. Laws 2003, First Special Session chapter 9, article 2, section 55, subdivision 12, is amended to read:

Subd. 12. [TRIBAL CONTRACT SCHOOLS.] For tribal contract school aid under Minnesota Statutes, section 124D.83:

\$2,135,000 <u>\$1,617,000</u>	.....	2004
\$2,336,000 <u>\$2,185,000</u>	.....	2005

The 2004 appropriation includes \$285,000 for 2003 and ~~\$1,850,000~~ \$1,332,000 for 2004.

The 2005 appropriation includes ~~\$462,000~~ \$333,000 for 2004 and ~~\$1,874,000~~ \$1,852,000 for 2005.

C. SPECIAL PROGRAMS

Sec. 13. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 4, is amended to read:

Subd. 4. [AID FOR CHILDREN WITH DISABILITIES.] For aid under Minnesota Statutes, section 125A.75, subdivision 3, for children with disabilities placed in residential facilities within the district boundaries for whom no district of residence can be determined:

\$2,177,000 <u>\$2,311,000</u>	.....	2004
\$2,244,000 <u>\$2,550,000</u>	.....	2005

If the appropriation for either year is insufficient, the appropriation for the other year is available.

Sec. 14. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 5, is amended to read:

Subd. 5. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

\$220,000 <u>\$173,000</u>	.....	2004
\$261,000 <u>\$178,000</u>	.....	2005

The 2004 appropriation includes \$34,000 for 2003 and ~~\$186,000~~ \$139,000 for 2004.

The 2005 appropriation includes ~~\$46,000~~ \$34,000 for 2004 and ~~\$215,000~~ \$144,000 for 2005.

Sec. 15. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 6, is amended to read:

Subd. 6. [SPECIAL EDUCATION; EXCESS COSTS.] For excess cost aid under Minnesota Statutes, section 125A.79, subdivision 7:

\$92,606,000 <u>\$92,605,000</u>	.....	2004
\$92,984,000 <u>\$92,799,000</u>	.....	2005

The 2004 appropriation includes \$41,754,000 for 2003 and ~~\$50,852,000~~ \$50,851,000 for 2004.

The 2005 appropriation includes ~~\$41,215,000~~ \$41,216,000 for 2004 and ~~\$51,769,000~~ \$51,583,000 for 2005.

Sec. 16. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 7, is amended to read:

Subd. 7. [LITIGATION COSTS FOR SPECIAL EDUCATION.] For paying the costs a district incurs under Minnesota Statutes, section 125A.75, subdivision 8:

\$346,000 <u>\$201,000</u>	.....	2004
\$17,000 <u>\$150,000</u>	.....	2005

Sec. 17. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 8, is amended to read:

Subd. 8. [TRANSITION FOR DISABLED STUDENTS.] For aid for transition programs for children with disabilities under Minnesota Statutes, section 124D.454:

\$8,625,000 <u>\$8,570,000</u>	.....	2004
\$8,867,000 <u>\$8,760,000</u>	.....	2005

The 2004 appropriation includes \$1,516,000 for 2003 and ~~\$7,109,000~~ \$7,054,000 for 2004.

The 2005 appropriation includes ~~\$1,777,000~~ \$1,763,000 for 2004 and ~~\$7,090,000~~ \$6,997,000 for 2005.

Sec. 18. Laws 2003, First Special Session chapter 9, article 3, section 20, subdivision 9, is amended to read:

Subd. 9. [COURT-PLACED SPECIAL EDUCATION REVENUE.] For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by court action under Minnesota Statutes, section 125A.79, subdivision 4:

\$152,000 <u>\$36,000</u>	.....	2004
\$160,000 <u>\$61,000</u>	.....	2005

D. FACILITIES AND TECHNOLOGY

Sec. 19. Laws 2003, First Special Session chapter 9, article 4, section 31, subdivision 2, is amended to read:

Subd. 2. [HEALTH AND SAFETY REVENUE.] For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

\$7,839,000 <u>\$5,356,000</u>	.....	2004
\$6,068,000 <u>\$1,920,000</u>	.....	2005

The 2004 appropriation includes \$1,516,000 for 2003 and ~~\$6,323,000~~ \$3,840,000 for 2004.

The 2005 appropriation includes ~~\$1,580,000~~ \$960,000 for 2004 and ~~\$4,488,000~~ \$960,000 for 2005.

Sec. 20. Laws 2003, First Special Session chapter 9, article 4, section 31, subdivision 3, is amended to read:

Subd. 3. [DEBT SERVICE EQUALIZATION.] For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

\$34,500,000 <u>\$35,598,000</u>	.....	2004
\$37,575,000 <u>\$31,220,000</u>	.....	2005

The 2004 appropriation includes \$5,586,000 for 2003 and ~~\$28,914,000~~ \$30,012,000 for 2004.

The 2005 appropriation includes ~~\$7,228,000~~ \$7,503,000 for 2004 and ~~\$30,347,000~~ \$23,717,000 for 2005.

E. NUTRITION, SCHOOL ACCOUNTING, OTHER PROGRAMS

Sec. 21. Laws 2003, First Special Session chapter 9, article 5, section 35, subdivision 2, is amended to read:

Subd. 2. [SCHOOL LUNCH.] (a) For school lunch aid according to Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17:

\$7,800,000 <u>\$7,650,000</u>	.....	2004
\$7,950,000 <u>\$7,760,000</u>	.....	2005

Sec. 22. [APPROPRIATIONS IN OTHER BILLS.]

Appropriations for forecast programs in this act supersede appropriations for the same forecast programs in 2004 S.F. No. 2732, if enacted, or any other similarly styled bill."

Amend the title as follows:

Page 1, delete lines 12 to 16 and insert "Statutes 2002, sections 120A.05, by adding a subdivision; 123A.05, subdivision 2; 123B.12; 123B.75, by adding a subdivision; 124D.68, subdivision 9; 124D.69, subdivision 1; 126C.05, by adding a subdivision; 126C.15, subdivisions 2, 3, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 128D.11, subdivision 9; Minnesota Statutes 2003 Supplement, sections 16A.152, subdivision 2; 123B.54; 124D.095, subdivision 8; 124D.11, subdivisions 1, 2; 124D.1158, subdivision 3; 124D.118, subdivision 4; 125A.79, subdivision 1; 126C.10, subdivision 31; 126C.15, subdivision 1; 126C.63, subdivision 8; 127A.47, subdivisions 7, 8; Laws 2003, First Special Session chapter 9, article 1, section 53, subdivisions 2, 3, 5, 6, 11, 12; Laws 2003, First Special Session chapter 9, article 2, section 55, subdivisions 2, 3, 4, 5, 7, 9, 12, 15, 16; Laws 2003, First Special Session chapter 9, article 3, section 20, subdivisions 4, 5, 6, 7, 8, 9; Laws 2003, First Special Session chapter 9, article 4, section 29; Laws 2003, First Special Session chapter 9, article 4, section 31, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 5, section 35, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 6, section 4; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10; section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120B; 125B; 127A."

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

SECOND READING OF SENATE BILLS

S.F. No. 1115 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Langseth moved that the name of Senator Kleis be added as a co-author to S.F. No. 2172. The motion prevailed.

Senator Langseth introduced--

Senate Resolution No. 143: A Senate resolution congratulating the Dilworth-Glyndon-Felton High School boys basketball team on winning third place in the 2004 State High School Class 2A Boys Basketball Tournament.

Referred to the Committee on Rules and Administration.

Senators Bachmann and LeClair introduced--

Senate Resolution No. 144: A Senate resolution honoring Stillwater Area High School Orchestra Director James D. Hainlen on the occasion of his retirement.

Referred to the Committee on Rules and Administration.

Senator Hottinger introduced--

Senate Resolution 145: A Senate resolution congratulating the Mankato West High School Academic Decathlon team on winning the large school division of the state tournament.

Referred to the Committee on Rules and Administration.

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated H.F. No. 956 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 956: A bill for an act relating to veterans homes; clarifying use of certain funds; amending Minnesota Statutes 2002, section 198.261.

Senator Kleis moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 7, before "An" insert "Subdivision 1. [LEGISLATURE.] The legislature may not spend any money for travel outside of the state during the fiscal year ending June 30, 2005.

Subd. 2. [STATE AGENCIES.]"

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

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

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 10, delete "or"

Page 15, line 11, before the period, insert "; or

(3) travel to Washington, D.C"

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 10, delete "or"

Page 15, line 11, before the period, insert ";

(3) a human services employee escorting a state-operated services patient or resident; or

(4) as required to investigate welfare or health care fraud or abuse, administer a nursing home bankruptcy or receivership, perform certification reviews under Minnesota Statutes, section 260B.198, for juvenile court placements, administer federal funds, or audit out-of-state contractors"

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 9, after line 6, insert:

"Sec. 19. Minnesota Statutes 2002, section 16B.55, subdivision 3, is amended to read:

Subd. 3. [PERMITTED USES.] A state vehicle may be used by a state employee to travel to or from the employee's residence:

(1) on a day on which it may be necessary for the employee to respond to a work-related emergency during hours when the employee is not normally working;

(2) if the employee has been assigned the use of a state vehicle for authorized state business on an extended basis, and the employee's primary place of work is not the state work station to which the employee is permanently assigned;

(3) if the employee has been assigned the use of a state vehicle for authorized state business away from the work station to which the employee is permanently assigned, and the number of miles traveled, or the time needed to conduct the business, will be minimized if the employee uses a state vehicle to travel to the employee's residence before or after traveling to the place of state business; or

(4) if the employee is authorized to participate in a ridesharing program established by the commissioner pursuant to section 174.257.

Use of a state vehicle under this subdivision requires the prior approval of the agency head or the designee of the agency head. A state employee must reimburse the employer for the use of a state vehicle to the extent the use would be considered a taxable fringe benefit for the employee under the Internal Revenue Code and regulations implementing the code, but for the employee reimbursing the employer. The reimbursement must be at the same rate per mile as the standard mileage rate for business use of an automobile permitted under the Internal Revenue Code and regulations in effect when the employee uses the state vehicle. A state employee must report use of a state vehicle under this subdivision to the employer within 15 days after use of the vehicle. Notwithstanding any law to the contrary, the employer must deduct from the employee's pay the amount due to the employer under this subdivision."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Day moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 3, line 9, delete everything after the period and insert "Any layoffs necessitated by this appropriation reduction must be applied in the same proportion to positions in the classified and unclassified services."

Page 3, delete lines 10 and 11

CALL OF THE SENATE

Senator Cohen imposed a call of the Senate for the balance of the proceedings on H.F. No. 956. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 32 and nays 35, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Cohen moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 10, delete "or"

Page 15, line 11, before the period, insert "; or

(3) the governor visiting troops on active duty"

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

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

The motion prevailed. So the amendment was adopted.

Senator Neuville moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, delete section 31

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 32 and nays 35, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Berglin moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 5, delete line 1

Correct the section totals and the appropriation summary

The motion prevailed. So the amendment was adopted.

Senator Larson moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 7, after "executive" insert "or judicial"

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

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

The motion prevailed. So the amendment was adopted.

Senator Larson then moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 7, after "branch" insert ", including the University of Minnesota and the Minnesota State Colleges and Universities,"

Senator Larson then moved to amend the second Larson amendment to H.F. No. 956 as follows:

Page 1, line 4, delete "University of Minnesota and the"

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

The question was taken on the adoption of the second Larson amendment.

The roll was called, and there were yeas 1 and nays 65, as follows:

Those who voted in the affirmative were:

Larson

Those who voted in the negative were:

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

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

Senator Kleis moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 4, after line 11, insert:

"Subd. 2. LEGISLATURE -0- (2,266,000)

\$1,300,000 is from the appropriation for the house of representatives and \$966,000 is from the appropriation for the senate."

Renumber the subdivisions in sequence and correct the internal references

Correct the section totals and the appropriation summary

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 37, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Koering	Neuville	Reiter
Day	Jungbauer	Larson	Nienow	Robling
Dille	Kierlin	LeClair	Olson	Rosen
Fischbach	Kiscaden	Limmer	Ortman	Ruud
Frederickson	Kleis	McGinn	Ourada	Wergin
Gaither	Knutson	Michel	Pariseau	

Those who voted in the negative were:

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

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

Senator Kleis then moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 41, after line 34, insert:

"Sec. 13. [290.433] [GLOBAL WAR ON TERRORISM CHECKOFF.]

Every individual who files an income tax return or property tax refund claim, and every corporation that files an income tax return, may designate on their return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that individual or corporation and paid into an account to be established for the purpose of paying bonuses to residents of this state who are veterans of the global war on terrorism. The commissioner shall, on the income tax returns and the property tax refund claim form, notify filers of their right to designate that a portion of their tax or refund shall be paid into the account for veterans of the global war on terrorism. The amounts designated under this section shall be annually appropriated to the commissioner of the Department of Veterans Affairs to pay bonuses to veterans of the global war on terrorism. All interest earned on money accrued shall be credited to the account by the commissioner of finance.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003, and for property tax refund claims for property taxes payable after December 31, 2003."

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 not germane.

Senator Kleis appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 35 and nays 32, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Bachmann	Johnson, D.J.	Larson	Olson	Rosen
Day	Jungbauer	LeClair	Ortman	Ruud
Dille	Kierlin	Limmer	Ourada	Senjem
Fischbach	Kiscaden	McGinn	Pappas	Wergin
Frederickson	Kleis	Michel	Pariseau	
Gaither	Knutson	Neuville	Reiter	
Hann	Koering	Nienow	Robling	

So the decision of the President was sustained.

Senator Frederickson moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Pages 13 and 14, delete section 26 and insert:

"Sec. 26. Minnesota Statutes 2002, section 116J.01, subdivision 5, is amended to read:

Subd. 5. [DEPARTMENTAL ORGANIZATION.] (a) The commissioner shall organize the department as provided in section 15.06.

(b) The commissioner may establish divisions and offices within the department. The commissioner may employ ~~four~~ three deputy commissioners in the unclassified service. One deputy must direct the Minnesota Trade Office and must be experienced and knowledgeable in matters of international trade. One must direct the Office of Tourism and be knowledgeable in matters of tourism.

(c) The commissioner shall:

(1) employ assistants and other officers, employees, and agents that the commissioner considers necessary to discharge the functions of the commissioner's office;

(2) define the duties of the officers, employees, and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under conditions prescribed by the commissioner.

(d) The commissioner shall ensure that there are at least three trade and economic development officers in state offices in nonmetropolitan areas of the state who will work with local units of government on developing local trade and economic development."

Page 15, line 23, after the first semicolon, insert "and" and delete "; and 116J.01, subdivision 4"

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 37, as follows:

Those who voted in the affirmative were:

Belanger	Hann	Koering	Nienow	Robling
Day	Jungbauer	Larson	Olson	Rosen
Dille	Kierlin	Limmer	Ortman	Ruud
Fischbach	Kiscaden	McGinn	Ourada	Senjem
Frederickson	Kleis	Michel	Pariseau	Wergin
Gaither	Knutson	Neuville	Reiter	

Those who voted in the negative were:

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

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

Senator Frederickson moved to amend H.F. No. 956, the unofficial engrossment, as follows:

Page 15, line 10, delete "or"

Page 15, line 11, before the period, insert ";

(3) an employee of the Department of Health;

(4) an employee of the Board of Animal Health;

(5) an employee of the Department of Transportation;

(6) an employee of the Department of Natural Resources;

(7) an employee of the Department of Employment and Economic Development;

(8) an employee of the Minnesota Trade and Tourism Office;

(9) an employee of the Department of Human Services;

(10) an employee of the Department of Education; or

(11) an employee of the Department of Public Safety"

Senator Kiscaden moved to amend the second Frederickson amendment to H.F. No. 956 as follows:

Page 1, line 13, delete "or"

Page 1, line 14, after "Safety" insert "; or

(12) an employee of the Department of Agriculture"

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

The question recurred on the second Frederickson amendment, as amended.

The roll was called, and there were yeas 30 and nays 37, as follows:

Those who voted in the affirmative were:

Belanger	Hann	Koering	Nienow	Robling
Day	Johnson, D.J.	Larson	Olson	Rosen
Dille	Jungbauer	Limmer	Ortman	Ruud
Fischbach	Kierlin	McGinn	Ourada	Senjem
Frederickson	Kiscaden	Michel	Pariseau	Sparks
Gaither	Knutson	Neuville	Reiter	Wergin

Those who voted in the negative were:

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

The motion did not prevail. So the Frederickson amendment, as amended, was not adopted.

H.F. No. 956 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 35 and nays 32, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Bachmann	Hann	Koering	Nienow	Rosen
Belanger	Johnson, D.J.	Larson	Olson	Ruud
Day	Jungbauer	LeClair	Ortman	Senjem
Dille	Kierlin	Limmer	Ourada	Wergin
Fischbach	Kiscaden	McGinn	Pariseau	
Frederickson	Kleis	Michel	Reiter	
Gaither	Knutson	Neuville	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 and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

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

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

S.F. No. 2774: A bill for an act relating to telecommunications; requiring instant credit for wrong information from directory assistance; amending Minnesota Statutes 2002, section 237.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 237.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

INCORRECT DIRECTORY ASSISTANCE

Section 1. Minnesota Statutes 2002, section 237.01, is amended by adding a subdivision to read:

Subd. 8. [LOCAL EXCHANGE CARRIER.] "Local exchange carrier" means a telephone company or telecommunications carrier providing local exchange service.

Sec. 2. [237.155] [CREDIT FOR INCORRECT DIRECTORY ASSISTANCE.]

A local exchange carrier that provides directory assistance to customers for a fee, either directly or by contracting with a third party, must provide for an immediate credit to a customer that informs the directory assistance provider that the provider has given the customer incorrect information for which the provider charged the customer a fee.

ARTICLE 2

UTILITY DEPOSITS

Section 1. Minnesota Statutes 2002, section 237.06, is amended to read:

237.06 [REASONABLE RATE RATES AND SERVICE DEPOSITS.]

It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company organized after January 1, 1949, may include in its charges a reasonable deposit fee not exceeding \$50 for facilities furnished.

Sec. 2. Minnesota Statutes 2002, section 325E.02, is amended to read:

325E.02 [CUSTOMER DEPOSITS.]

Any customer deposit required before commencement of service by a privately or publicly owned water, gas, telephone, cable television, electric light, heat, or power company shall be subject to the following:

(a) Upon termination of service with all bills paid, the deposit shall be returned to the customer within 45 days, less any deductions made in accordance with paragraph (c).

(b) Interest shall be paid on deposits in excess of \$20 ~~at the rate of not less than three percent per year.~~ The rate of interest must be set annually and be equal to the weekly average yield of one-year United States Treasury securities adjusted for constant maturity for the last full week in November. The interest rate must be rounded to the nearest tenth of one percent. By December 15 of each year, the commissioner of commerce shall announce the rate of interest that must be paid on all deposits held during all or part of the subsequent year. The company may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

(c) At the time the deposit is made the company shall furnish the customer with a written receipt specifying the conditions, if any, the deposit will be diminished upon return.

(d) Advance payments or prepayments shall not be construed as being a deposit.

Sec. 3. [RULES OR ORDERS SUPERSEDED.]

The interest rate set in section 2 supersedes any rate set in rule or by administrative order.

Sec. 4. [EFFECTIVE DATE.]

Section 2 applies to interest paid on deposits held as of January 1, 2005, and thereafter.

ARTICLE 3

OBSOLETE RULES REPEALER

Section 1. [REPEALER.]

Minnesota Rules, parts 7810.0100, subparts 16, 17, 18, 30, 32, 33, and 39; 7810.0700; 7810.3400; 7810.3500; 7810.3600; 7810.3700; 7810.3800; 7810.4200; 7810.4400; 7810.4500; 7810.4600; 7810.4700; 7810.4800; 7810.5600; 7810.6900; 7810.8760; 7815.0100; 7815.0200; 7815.0300; 7815.0400; 7815.0500; and 7815.0600, are repealed.

ARTICLE 4

ADDITIONAL CABLE FRANCHISE

Section 1. Minnesota Statutes 2002, section 238.08, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT; CONDITIONS.] (a) A municipality or its franchise authority shall require a franchise or extension permit of any cable communications system providing service within the municipality.

(b) No municipality shall grant an additional franchise for cable service for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to: ~~(1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees.~~ The provisions of this paragraph shall not apply when the area in which the additional franchise is being sought is not actually being served by any existing cable communications company holding a franchise for the area. Nothing in this paragraph prevents a municipality from imposing additional terms and conditions on any additional franchises. The grant of an additional franchise may include an area for cable service similar to that in an existing franchise or another area that the municipality or its franchise authority determines is necessary or desirable to reasonably meet the needs of the municipality or its franchise authority. Additional franchises must be granted or rejected by a municipality within 180 days of the notice of application being published in a newspaper of general circulation unless the date is extended by mutual agreement of the additional franchise provider and municipality.

Sec. 2. Minnesota Statutes 2002, section 238.08, is amended by adding a subdivision to read:

Subd. 1a. [LOCAL PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS CHANNELS.] (a) An additional franchise must ensure that all subscribers receive local public,

educational, and governmental access channels within the additional franchise provider's franchise area.

(b) An additional franchise must ensure that all subscribers receive local public, educational, and governmental access channels and local origination channels as specified in the existing franchise, and on channels designated within the existing franchise or actually used for the delivery of public, educational, and governmental access and local origination. An additional franchise provider must not be required to provide any public, educational, and governmental access or local origination channels not specified in an existing franchise or in actual use for those purposes.

(c) An existing franchise provider must be required to permit an additional franchise provider to connect with its local public, educational, and governmental access and local origination channel feeds and provide an additional franchise provider with the programming on those channels. An additional franchise provider and the existing franchise provider may decide how to accomplish this connection, taking into consideration the exact physical and technical circumstances of the systems involved. An agreement must be negotiated between the additional franchise provider and the existing franchise provider specifying these requirements.

The additional franchise provider may proceed with providing its services before public, educational, and governmental access negotiations are completed. If the additional franchise provider and existing franchise provider cannot agree on how to accomplish this within three months from the effective date of the granting of the additional franchise, the municipality or its franchising authority may adopt a resolution specifying these requirements. The costs of connection to the existing franchise provider's public, educational, and governmental access channel feed must be borne by the additional franchise provider. The municipality or its franchise authority may require that the connection occur on government property or on public rights-of-way.

(d) An additional franchise provider shall make financial contributions that are equivalent annually, on a per customer basis, to the public, educational, and governmental access services, facilities, and equipment provided or made available by the existing franchise provider.

(e) For in-kind contributions, such as cameras and production studios, an additional franchise provider may satisfy its requirements by negotiating mutually agreeable terms with the existing franchise provider and the municipality or its franchise authority so that public, educational, and governmental access and local origination services to the community are improved or increased.

(f) An additional franchise provider must adjust its systems to comply with new public, educational, and governmental access and local origination obligations imposed by a cable franchise renewal. The additional franchise provider must not, however, be required to displace other programmers using its system to accommodate public, educational, and governmental access and local origination channels. The additional franchise provider must comply with the public, educational, and governmental access and local origination obligations whenever additional capacity is or becomes available, whether it is due to increased channel capacity or decreased demand for channel capacity.

(g) A municipality or its franchising authority may not impose public, educational, and governmental access or local origination obligations on the additional franchise provider that would exceed those imposed on the existing franchise provider.

Sec. 3. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 5

THIRD-PARTY BILLING

Section 1. [237.665] [PROHIBITION AGAINST BILLING FOR UNAUTHORIZED CHARGES.]

(a) A telephone company or telecommunications carrier providing local service shall not include on a customer's bill a charge for goods or services on behalf of a third-party service provider unless the third-party service provider has obtained the customer's prior express authorization to include such charges on the customer's bill.

(b) If a customer of a telephone company or telecommunications carrier notifies the telephone company or telecommunications carrier that an unauthorized charge from a third-party service provider has been included on the customer's bill, then the telephone company or telecommunications carrier shall remove the unauthorized charge. The telephone company or telecommunications carrier shall refund to the customer any amounts paid for the unauthorized charges that were billed by the telephone company or telecommunications carrier during the six months prior to the customer's complaint, unless the telephone company or telecommunications carrier can produce within 14 calendar days of the complaint evidence to the customer of prior express authorization by the customer.

(c) A third-party service provider meets the prior express authorization requirements of this section only if it obtains or receives a customer's written authorization in the form of a letter of agency, a customer's oral authorization verified by an independent third party, or a copy of an e-mail notice of verification as described in clause (3).

(1) If the third-party service provider obtains the customer's written authorization in the form of a letter of agency, it must be a separate or easily separable document. The sole purpose of the letter of agency shall be to authorize a charge for goods or services to appear on the customer's telephone bill. The letter of agency must be of sufficient size to be clearly legible and must contain clear and unambiguous language that contains separate statements for each good or service for which the customer is agreeing to be billed. The letter of agency must be signed and dated by the customer.

(2) If the customer's authorization is oral, the authorization must be verified by an independent third-party verifier. The verification is valid only if:

(i) the independent third party confirms the customer's identity with information unique to the customer unless the customer refuses, then that fact must be noted; and

(ii) the independent third party informs the customer that the customer is agreeing to be billed for goods or services that will appear as a charge on the customer's telephone bill.

(3) If a customer enters a contract via the Internet with a third-party service provider for goods or services which are charged to the bill issued by the customer's telephone company or telecommunications carrier providing local service, the third-party service provider must, within 48 hours of receiving the customer's authorization, send the customer, via e-mail, a notice of verification confirming the authorization. The third-party service provider shall maintain a copy of the notice of verification for the duration of the contract as a record of the customer's express authorization to be charged for the goods or services on the customer's telephone bill for local service.

(d) For direct-dialed calls, where the call itself represents the service for which the charge is placed on a customer's local telephone bill, such as "900 number" services and "dial around" services, evidence that the call was placed from the number that is subject to the telephone bill shall be considered sufficient evidence of authorization for that call for billing authorization purposes established in this section. Nothing in this section shall be construed to change a telephone company's or telecommunication carrier's obligations or affect a telephone subscriber's rights under section 325F.692.

(e) This section does not apply to charges for collect calls.

(f) Nothing in this section restricts the right of a telephone company or telecommunications carrier to seek to recover from a third-party service provider unauthorized charges refunded to the customer by the telephone company or telecommunications carrier.

ACCESS CHARGES AND RELATED ISSUES STUDY

Section 1. [STUDY AND RECOMMENDATIONS.]

The commissioner of commerce shall convene a work group of all interested and affected parties to discuss and make recommendations regarding intercarrier access compensation, a state universal service fund, and related issues. The report and any legislative recommendations shall be presented to the senate Jobs, Energy and Community Development Committee and the house Regulated Industries Committee by January 15, 2005.

Sec. 2. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 7

LOCAL SERVICE DEREGULATION AND EXTENDED SERVICE AREAS

Section 1. [237.414] [EXPANDED CALLING AREAS; TRANSPORT FACILITIES; TERMINATIONS.]

Subdivision 1. [EXPANDED CALLING AREAS.] (a) In addition to any existing authority applicable to telephone companies, a telephone company may expand the area to which it can provide calling to its customers upon filing with the commission any agreements between the telephone company and other telephone companies and telecommunications carriers entered into under subdivision 3. Calling to these expanded areas must be optional to customers and must be in addition to the customers' existing local service and any extended area service. Subject to sections 237.06 and 237.09, the telephone company may determine the quantity of expanded calling to provide, the prices for that calling, and whether to offer calling alone or in combination with one or more other telephone or unregulated services.

(b) Prices for expanded calling service or for bundles of services that include expanded calling must exceed the variable cost of the expanded calling service or bundles of services, determined on an aggregate basis. A telephone company is not required to file cost information before implementing its prices and is not required to file cost information except on request of the department, Office of the Attorney General, or commission. Customers must be notified of local service options and prices, including options that do not include expanded calling, as required under section 237.66. The telephone company shall clearly identify the distinction between the expanded calling area and the basic local calling area to customers. The telephone company is not required to offer unlimited flat-rate calling to these expanded calling areas. The telephone company shall file tariffs setting forth the expanded calling area along with the applicable prices and quantities of calling.

(c) A rate increase or a substantial change in terms and conditions of the expanded calling service may be effective 30 days after filing with the commission and 30 days after providing written notice to affected customers. Rate decreases may be effective immediately upon filing. Minor changes to terms and conditions may be effective immediately upon filing and upon notice to the customers. This section does not apply to extended area service or to calling areas previously or hereafter established by order of the commission. This section does not limit the existing rights and obligations of telephone companies and telecommunications carriers to provide local calling, including the obligation to offer unlimited flat rate calling in the basic local calling area or expanded calling area.

Subd. 2. [OBTAINING TRANSPORT, SWITCHING FACILITIES.] A telephone company may construct, purchase, lease, or rent transport and switching facilities between its existing local area and the expanded calling area that are needed to provide the expanded calling. If the telephone company is unable to reach agreement with other telephone companies or telecommunications carriers, the company or carrier may petition the commission under section 237.12 to resolve issues regarding prices, terms, and conditions for use of any transport facilities that are subject to the jurisdiction of the commission.

Subd. 3. [TERMINATION OF EXPANDED CALLING TRAFFIC.] (a) A telephone company providing an expanded calling area under this section may enter into an agreement to terminate calls with telephone companies and telecommunications carriers providing service within the expanded calling area. Compensation to the telephone company or telecommunications carrier to terminate expanded calling into such areas must be the intrastate access charges of the telephone company or telecommunications carrier terminating the call or other rates agreed upon by the companies.

(b) Two telephone companies that provide expanded calling between their respective areas may also enter into "bill and keep" arrangements for exchange of the expanded calling area traffic.

(c) The telephone company shall file with the commission any agreements for termination of calling by telephone companies and telecommunications carriers providing service within the expanded calling area.

Subd. 4. [AMENDING OR TERMINATING EXPANDED CALLING SERVICE.] Except for calling areas that result from a prior or subsequent order of the commission, a telephone company may amend or terminate the expanded calling area service upon 30 days' written notice to customers, the commission, and other telephone companies and telecommunications carriers providing local service in the expanded area. The notice to customers of an amendment to the expanded calling area or termination of an expanded calling area must be sent separately from other mailings and clearly explain how the expanded calling area is being changed. The notice to customers of an amendment must also clearly identify that calls to areas outside of the expanded calling area will be long distance calls billed at the applicable rate of the customer's long distance carrier. The notice to customers of a termination must clearly identify that calls to the terminated expanded calling area will become long distance calls billed at the applicable rate of the customer's long distance carrier.

Sec. 2. [237.43] [ANNUAL UNIVERSAL SERVICE FUNDING CERTIFICATION.]

In determining whether to provide the annual certification of any eligible telecommunications carrier for continued receipt of federal universal service funding, the commission shall apply the same standards and criteria to all eligible telecommunications carriers.

ARTICLE 8

WIRELESS CONSUMER PROTECTION

Section 1. [325F.695] [CONSUMER PROTECTIONS FOR WIRELESS CUSTOMERS.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Contract" means an oral or written agreement of definite duration between a provider and a customer, detailing the wireless telecommunications services to be provided to the customer and the terms and conditions for provision of those services.

(b) "Wireless telecommunications services" means commercial mobile radio services as defined in Code of Federal Regulations, title 47, part 20.

(c) "Provider" means a provider of wireless telecommunications services.

(d) "Substantive change" means a modification to, or addition or deletion of, a term or condition in a contract that results in an increase in the charge to the customer under that contract. "Substantive change" includes a modification in the provider's administration of an existing contract term or condition.

Subd. 2. [COPY OF CONTRACT.] A provider must provide each customer with a written copy of the customer's contract between the provider and the customer within 15 days of the date the contract is entered into. A provider must maintain verification that the customer accepted the terms of the contract for the duration of the contract period.

Subd. 3. [NOTICE OF SUBSTANTIVE CHANGE; CUSTOMER MAY OPT OUT.] A

provider must notify the customer in writing of any proposed substantive change in the contract between the provider and the customer 60 days before that change is to take effect. The customer may choose to opt out of and terminate the contract without penalty within the 60-day notice period. The choice to opt out of and terminate the contract must be in writing. If no affirmative action is taken by the customer to opt out of and terminate the contract, the customer is considered to have agreed to the proposed substantive change and the contract is considered modified.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on July 1, 2004, and applies to contracts for wireless service entered into on or after May 1, 2004.

ARTICLE 9

REDUCED RATE REGULATION

Section 1. [237.41] [REDUCED RATE REGULATION.]

Subdivision 1. [GENERAL.] The rates, prices, tariffs, or charges for local services to end-use customers may not rise above the levels in effect on the effective date of this section for comparable services.

Subd. 2. [ONE PARTY RESIDENTIAL LINES.] Rates for one party residential service may not be increased until December 31, 2006. After December 31, 2006, a single monthly rate increase each year of up to \$1 is permitted. The increase is effective following 30 days' notice to customers, the department, the Office of the Attorney General, and the commission unless a petition signed by the lesser of 500 customers or five percent or more of the company's customers is filed with the commission. If a valid petition is filed, the increase is only effective upon order of the commission.

Subd. 3. [BUSINESS CUSTOMERS; TWO LINES OR FEWER.] For business customers subscribing to two or fewer business lines, the rates are regulated as provided in subdivision 2 except that the maximum single monthly rate increase may be up to \$2 and may begin in calendar year 2005.

Subd. 4. [EXEMPTION.] Rates for residential customers who subscribe to a package of residential services or to business customers who subscribe to three or more lines are exempt from this section. The rates, prices, tariffs, or charges for local services provided to these customers by a telephone company or by a telecommunications carrier offering local service are only subject to the provisions of sections 237.07, subdivision 1; 237.66; and 237.663, and are not subject to any rules imposing rate or price restrictions or obligations beyond those provisions or to other order or investigation of local rates under section 237.081.

ARTICLE 10

SERVICE STANDARDS

Section 1. [237.82] [SERVICE STANDARDS.]

The commission, except as provided for in alternative forms of regulations plans, may not impose retail service quality standards that differ among or between telephone companies or telecommunications carriers.

ARTICLE 11

CABLE REGULATION

Section 1. Minnesota Statutes 2002, section 238.02, subdivision 3, is amended to read:

Subd. 3. [CABLE COMMUNICATIONS SYSTEM.] (a) "Cable communications system" means a system which operates that provides the service of receiving and amplifying (1) programs broadcast by one or more television or radio stations and (2) other programs originated by a person operating a cable communications company system or by another party, and distributing

person. The system distributes those programs by wire, cable, microwave, or other means, regardless whether the means are owned or leased, to persons who subscribe to the service.

(b) This definition does not include:

(a) (1) a system ~~which~~ that serves fewer than 50 subscribers or a system ~~which~~ that serves more than 50 but fewer than 1,000 subscribers if the governing bodies of all political subdivisions served by the system, vote, by resolution, to remove the system from the provisions of this chapter; provided that:

(i) no part of a system, nor any area within the municipality served by the system, may be removed from the provisions of this chapter if more than 1,000 subscribers are served by the system; and

(ii) any system ~~which serves~~ serving more than 50 but fewer than 1,000 subscribers that has been removed from the provisions of this chapter ~~shall be returned~~ becomes subject to the provisions of this chapter if the governing bodies of 50 percent or more of the political subdivisions served by the system vote, by resolution, in favor of the return;

(b) (2) a master antenna television system;

(c) (3) a specialized closed-circuit system ~~which~~ that does not use the public rights-of-way for the construction of its physical plant; and

(d) (4) a translator system ~~which~~ that receives and rebroadcasts over-the-air signals.

Sec. 2. Minnesota Statutes 2002, section 238.03, is amended to read:

238.03 [APPLICABILITY.]

This chapter applies to every cable communications system ~~and every cable communications company~~, as defined in section 238.02, operating within the state, including a cable communications company ~~which constructs, operates and maintains a cable communications system~~ comprised in whole or in part through the facilities of a person ~~franchised to offer common or contract carrier services~~ subject to regulation under chapter 237. Persons possessing franchises for any of the purposes of this chapter are ~~subject to this chapter~~ although no property has been acquired, business transacted, or franchises exercised.

Sec. 3. Minnesota Statutes 2002, section 238.08, subdivision 3, is amended to read:

Subd. 3. [MUNICIPAL OPERATION.] ~~Nothing in this chapter shall be construed to limit~~ Any municipality ~~from the right to~~ may construct, purchase, and operate cable communications systems; or, ~~to~~ operate facilities and channels for community television, including, but not limited to, public, educational, and governmental access and local origination programming. Any municipal system, including the operation of community television by a municipality, ~~shall be~~ is subject to this chapter to the same extent as would any nonpublic cable communications system.

Sec. 4. Minnesota Statutes 2002, section 238.08, subdivision 4, is amended to read:

Subd. 4. [FEE, TAX, OR CHARGE.] ~~Nothing in this chapter shall be construed to limit the power of~~ Any municipality ~~to~~ may impose upon any person operating a cable communications company system a fee, tax, or charge.

Sec. 5. Minnesota Statutes 2002, section 238.081, is amended to read:

238.081 [FRANCHISE PROCEDURE.]

Subdivision 1. [PUBLICATION OF NOTICE.] The franchising authority shall have published once each week for two successive weeks in a newspaper of general circulation in each municipality within the cable service territory, a notice of intent to consider an application for an initial franchise, ~~requesting applications for the franchise~~.

Subd. 2. [REQUIRED INFORMATION IN NOTICE.] The notice must include at least the following information:

- (1) the name of the municipality making the request;
- (2) the closing date for submission of applications;
- (3) a statement of the application fee, if any, and the method for its submission;
- (4) a statement by the franchising authority of the ~~desired system design and~~ services to be offered;
- (5) a statement by the franchising authority of criteria and priorities against which the applicants for the franchise must be evaluated;
- (6) a statement that applications for the franchise must contain at least the information required by subdivision 4;
- (7) the date, time, and place for the public hearing, to hear proposals from franchise applicants; and
- (8) the name, address, and telephone number of the individuals who may be contacted for further information.

Subd. 3. [OTHER RECIPIENTS OF NOTICE.] In addition to the published notice, the franchising authority shall mail copies of the notice of intent to franchise to any person it has identified as being a potential candidate for the franchise.

Subd. 4. [CONTENTS OF FRANCHISING PROPOSAL.] (a) The franchising authority shall require that proposals for a cable communications franchise be notarized and contain, but not necessarily be limited to, the following information:

- (1) plans for channel capacity, including both the total number of channels capable of being energized in the system and the number of channels to be energized immediately;
- (2) a statement of the television and radio broadcast signals for which permission to carry will be requested from the Federal Communications Commission;
- (3) a description of the proposed system design and planned operation, including at least the following items:
 - (i) the general area for location of antennae and the head end, if known;
 - (ii) the schedule for activating two-way capacity;
 - (iii) the type of automated services to be provided;
 - (iv) the number of channels and services to be made available for access cable broadcasting; and
 - (v) a schedule of charges for facilities and staff assistance for access cable broadcasting;
- (4) the terms and conditions under which particular service is to be provided to governmental and educational entities;
- (5) a schedule of proposed rates in relation to the services to be provided, and a proposed policy regarding unusual or difficult connection of services;
- (6) a time schedule for construction of the entire system with the time sequence for wiring the various parts of the area requested to be served in the request for proposals;
- (7) a statement indicating the applicant's qualifications and experience in the cable communications field, if any;

(8) an identification of the municipalities in which the applicant either owns or operates a cable communications system, directly or indirectly, or has outstanding franchises for which no system has been built;

(9) plans for financing the proposed system, which must indicate every significant anticipated source of capital and significant limitations or conditions with respect to the availability of the indicated sources of capital;

(10) a statement of ownership detailing the corporate organization of the applicant, if any, including the names and addresses of officers and directors and the number of shares held by each officer or director, and intracompany relationship including a parent, subsidiary, or affiliated company; and

(11) a notation and explanation of omissions or other variations with respect to the requirements of the proposal.

~~(b) Substantive amendments may not be made in a proposal after a proposal has been submitted to the franchising authority and before award of a franchise~~ Upon submission of a proposal, the municipality and applicant may negotiate franchise terms.

Subd. 5. [TIME LIMIT TO SUBMIT APPLICATION.] The franchising authority shall allow at least 20 days from the first date of published notice to the closing date for submitting applications.

Subd. 6. [PUBLIC HEARING ON FRANCHISE.] A public hearing before the franchising authority affording reasonable notice and a reasonable opportunity to be heard with respect to all applications for the franchise must be completed at least seven days before the ~~introduction of the adoption of a franchise ordinance in the proceedings of the franchising authority.~~

Subd. 7. [AWARD OF FRANCHISE.] Franchises may be awarded ~~only by ordinance or other official action by the franchising authority.~~

Subd. 8. [COSTS OF AWARDING FRANCHISE.] ~~Nothing in this section prohibits A franchising authority from recovering~~ may recover from a successful applicant the entire reasonable and necessary costs of the entire process of awarding the processing a cable communications franchise.

Subd. 9. [FRANCHISING NONPROFIT OR MUNICIPALLY OWNED SYSTEM.] Nothing contained in this section prohibits a franchising authority from franchising a nonprofit or municipally owned system. The municipality or nonprofit entity is considered an applicant for purposes of this section.

Subd. 10. [FRANCHISE; JOINT POWERS.] In the cases of municipalities acting in concert, the municipalities may delegate to another entity ~~such~~ any duties, responsibilities, privileges, or activities described in this section, if ~~such~~ the delegation is proper according to state and local law.

Sec. 6. Minnesota Statutes 2002, section 238.083, subdivision 2, is amended to read:

Subd. 2. [WRITTEN APPROVAL OF FRANCHISING AUTHORITY.] A sale or transfer of a franchise, including a sale or transfer by means of a fundamental corporate change, requires the written approval of the franchising authority. The parties to the sale or transfer of a franchise shall make a written request to the franchising authority for its approval of the sale or transfer. ~~The franchising authority shall reply in writing within 30 days of the request and shall indicate its approval of the request or its determination that a public hearing is necessary if it determines that a sale or transfer of a franchise may adversely affect the company's subscribers. The franchising authority shall conduct a public hearing on the request within 30 days of that determination.~~

Sec. 7. Minnesota Statutes 2002, section 238.083, subdivision 4, is amended to read:

Subd. 4. [APPROVAL OR DENIAL OF TRANSFER REQUEST.] ~~Within 30 days after the public hearing,~~ The franchising authority shall approve or deny in writing the sale or transfer request. The approval must not be unreasonably withheld.

Sec. 8. Minnesota Statutes 2002, section 238.084, subdivision 1, is amended to read:

Subdivision 1. [ALL SYSTEMS.] The following requirements franchise provisions are required and apply to all classes A, B, and C cable communications systems unless provided otherwise:

(a) ~~a provision that~~ The franchise ~~complies~~ shall comply with the Minnesota franchise standards contained in this section;

(b) ~~a provision requiring the franchisee and the franchising authority to conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective;~~

(c) ~~a provision limiting~~ The initial and renewal franchise term must be limited to not more than 15 years each;

(d) ~~a provision specifying that~~ (c) The franchise is must be nonexclusive;

(e) (d) A ~~provision prohibiting~~ sale or transfer of the franchise or sale or transfer of stock so as to create a new controlling interest under section 238.083 is prohibited, except at the approval of the franchising authority, which approval must not be unreasonably withheld, and conditioned that the sale or transfer is completed pursuant to section 238.083;

(f) ~~a provision granting~~ (e) The franchising authority collecting a franchise fee is granted the authority to audit the franchisee's accounting and financial records upon reasonable notice, ~~and requiring that~~.

(f) The franchisee shall file with the franchising authority annually reports of gross subscriber revenues and other information as the franchising authority deems appropriate;

(g) Provisions ~~specifying~~ relating to subscribers must specify:

(1) current subscriber charges or that the current charges are available for public inspection in the municipality;

(2) the length and terms of residential subscriber contracts, if they exist, or that the current length and terms of residential subscriber contracts are available for public inspection in the municipality; and

(3) the procedure by which subscriber charges are established, unless such a provision is contrary to state or federal law;

(h) ~~a provision indicating by title~~ The office or officer of the franchising authority that is responsible for the continuing administration of the franchise; must be indicated by title.

(i) ~~a provision requiring~~ The franchisee ~~to~~ shall indemnify and hold harmless the franchising authority during the term of the franchise, and ~~to~~ maintain throughout the term of the franchise, liability insurance in an amount as the franchising authority may require insuring both the franchising authority and the franchisee with regard to damages and penalties which that they may legally be required to pay as a result of the exercise of the franchise;

(j) ~~a provision that~~ At the time the franchise becomes effective and thereafter until the franchisee has liquidated all of its obligation with the franchising authority, the franchisee shall furnish a performance bond, certificate of deposit, or other type of instrument approved by the franchising authority in an amount as the franchising authority deems to be adequate compensation for damages resulting from the franchisee's nonperformance. The franchising authority may, from year to year and in its sole discretion, reduce the amount of the performance bond or instrument;

(k) ~~a provision that nothing contained in~~ The franchise must contain a provision that nothing relieves a person from liability arising out of the failure to exercise reasonable care to avoid

injuring the franchisee's facilities while performing work connected with grading, regrading, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system;

~~(l) a provision that The franchisee's technical ability, financial condition, and legal qualification were must have been considered and approved by the franchising authority in a full public proceeding that afforded reasonable notice and a reasonable opportunity to be heard;~~

~~(m) a provision requiring the construction of a cable system with a channel capacity available for immediate or potential use, equal to a minimum of 72 MHz of bandwidth, the equivalent of 12 television broadcast channels. For purposes of this section, a cable system with a channel capacity, available for immediate or potential use, equal to a minimum of 72 MHz of bandwidth means: the provision of a distribution system designed and constructed so that a minimum of 72 MHz of bandwidth, the equivalent of 12 television broadcast channels, can be put into use with only the addition of the appropriate headend equipment;~~

~~(n) a provision in initial franchises that there be a full description of the system proposed for construction and a schedule showing:~~

~~(1) that for franchise areas which will be served by a system proposed to have fewer than 100 plant miles of cable:~~

~~(i) that within 90 days of the granting of the franchise, the franchisee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(ii) that energized trunk cable must be extended substantially throughout the authorized area within one year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time; and~~

~~(iii) that the requirement of this section may be waived by the franchising authority only upon occurrence of unforeseen events or acts of God; or~~

~~(2) that for franchise areas which will be served by a system proposed to have 100 plant miles of cable or more, a provision:~~

~~(i) that within 90 days of the granting of the franchise, the franchisee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(ii) that engineering and design must be completed within one year after the granting of the franchise and that a significant amount of construction must be completed within one year after the franchisee's receipt of the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(iii) that energized trunk cable must be extended substantially throughout the authorized area within five years after commencement of construction and that persons along the route of the energized cable will have individual "drops" within the same period of time, if desired; and~~

~~(iv) that the requirement of this section be waived by the franchising authority only upon occurrence of unforeseen events or acts of God;~~

~~(o) The system capacity and system technical design must be identified.~~

~~(n) The schedule for system construction must be identified.~~

~~(o) Unless otherwise already provided for by local law, a provision that the franchisee shall obtain a permit from the proper municipal authority before commencing construction of a cable communications system, including the opening or disturbance of a street, sidewalk, driveway, or public place. The provision must specify remedies available to the franchising authority in cases where the franchisee fails to meet the conditions of the permit;~~

~~(p) Unless otherwise already provided for by local law, a provision that wires, conduits, cable,~~

and other property and facilities of the franchisee must be located, constructed, installed, and maintained in compliance with applicable codes. ~~The provision must also specify that the franchisee shall keep and maintain its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the streets and public places of the franchise area or endanger the life or property of any person;~~

(q) ~~Unless otherwise already provided for by local law, a provision that the franchising authority and the franchisee shall establish a procedure in the franchise for the relocation or removal of the franchisee's wires, conduits, cables, and other property located in the street, right-of-way, or public place whenever the franchising authority undertakes public improvements which that affect the cable equipment;~~

(r) ~~a provision incorporating by reference~~ As a minimum, the technical standards promulgated by the Federal Communications Commission relating to cable communications systems contained in subpart K of part 76 of the Federal Communications Commission's rules and regulations relating to cable communications systems and found in Code of Federal Regulations, title 47, sections 76.601 to 76.617, must be incorporated by reference into the franchise. The results of tests required by the Federal Communications Commission must be filed within ten days of the conduct of the tests with the franchising authority;

(s) ~~a provision establishing how~~ The franchising authority and the person operating a cable communications company system shall determine who is to bear the costs of required special testing; additional system testing required by the franchising authority.

(t) ~~a provision pertaining to the franchisee's construction and maintenance of a cable communications system having the technical capacity for nonvoice return communications which, for purposes of this section, means the provision of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary nonvoice communications electronic modules.~~

~~In cases where an initial franchise is granted, the franchisee shall provide a cable communications system having the technical capacity for nonvoice return communications.~~

~~When a franchise is renewed, sold, or transferred and is served by a system that does not have the technical capacity for nonvoice return communications, the franchising authority shall determine when and if the technical capacity for nonvoice return communications is needed after appropriate public proceedings at the municipal level giving reasonable notice and a reasonable opportunity to be heard;~~

(u) ~~a provision stating that~~ No signals of a class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for permission must be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. The written permission must be for a limited period of time not to exceed one year, which is renewable at the option of the subscriber. No penalty may be invoked for a subscriber's failure to provide or renew the authorization. The authorization is revocable at any time by the subscriber without penalty of any kind. ~~The permission must be required for each type or classification of class IV cable communications activity planned for the purpose;~~

(1) No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of the names and addresses of the subscribers or lists that identify the viewing habits of subscribers, may be sold or otherwise made available to any party person other than to the company and its employees for internal business use, or to the subscriber who is the subject of that information, unless the company has received specific written authorization from the subscriber to make the data available;

(2) Written permission from the subscriber must not be required for the systems conducting systemwide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of this information is subject to clause (1);

~~(3) For purposes of this provision, a "class IV cable communications channel" means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the communications system;~~

~~(v) a provision specifying (u) The procedure for the investigation and resolution by the franchisee of complaints regarding quality of service, equipment malfunction, billing disputes, and other matters; must be specified.~~

~~(w) a provision requiring that (v) At least a toll-free or collect telephone number for the reception of complaints must be provided to the subscriber and that the franchisee shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. The A provision must also state who will bear the costs included in making these repairs, adjustments, or installations;~~

~~(x) a provision granting (w) The franchising authority has the right to terminate and cancel the franchise and the rights and privileges of the franchise if the franchisee substantially violates a provision of the franchise ordinance, attempts to evade the provisions of the franchise ordinance, or practices fraud or deceit upon the franchising authority. The municipality shall provide the franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the franchisee a minimum of 30 days after service of the notice in which to correct the violation. The franchisee must be provided with an opportunity to be heard at a public hearing before the governing body of the municipality before the termination of the franchise;~~

~~(y) a provision that (x) No cable communications company system, notwithstanding any provision in a franchise, may abandon a cable communications service or a portion of it without having given three months prior written notice to the franchising authority. No cable communications company system may abandon a cable communications service or a portion of it without compensating the franchising authority for damages resulting to it from the abandonment;~~

~~(z) a provision requiring that (y) Upon termination or forfeiture of a franchise, unless otherwise required by applicable law, the franchisee shall remove its cable, wires, and appliances from the streets, alleys, and other public places within the franchise area if the franchising authority so requests, and. A procedure to be followed in the event the franchisee fails to remove its cable, wires, and appliances from the streets, alleys, and other public places within the franchise area; must be specified.~~

~~(aa) a provision that (z) When a franchise or cable system is offered for sale to be transferred or sold, the franchising authority shall have has the right to purchase the system;~~

~~(bb) a provision establishing (aa) The minimum number of access channels that the franchisee shall make available must be specified. This provision must require that the franchisee shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially designated access channel. The specially designated access channel may be used by local educational authorities and local government on a first-come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the franchisee shall lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time. As the municipality deems appropriate, the provision may require the franchisee to provide separate public access channels available for use by the general public on a first-come, first-served, nondiscriminatory basis; local educational access channels; local governmental access channels; and channels available for lease on a first-come, first-served, nondiscriminatory basis by commercial and noncommercial users. The provision must require that whenever the specially designated access channel required by this paragraph is in use during 80 percent of the weekdays, Monday through Friday, for 80 percent of the time during a consecutive three-hour period for six weeks running, and there is a demand for use of an additional channel for the same purpose, the franchisee has six months in which to provide a new, specially designated~~

access channel for the same purpose; provided that, the provision of the additional channel or channels does not require the cable system to install converters. The VHF spectrum must be used for the specially designated access channel required in this paragraph. The provision must also require that the franchisee shall establish rules for the administration of the specially designated access channel unless such channel is administered by the municipality.

~~Franchisees providing only alarm services or only data transmission services for computer-operated functions do not need to provide access channel reception to alarm and data service subscribers.~~

(bb) The minimum equipment that the franchisee shall make available for public use must be specified. The franchisee shall make readily available for public use at least the minimal equipment necessary for the production of programming and playback of prerecorded programs for the access channels. Upon request, the franchisee, at minimum, shall also make readily available the minimum equipment necessary to make it possible to record programs at remote locations with battery-operated portable equipment.

(cc) A franchise in the metropolitan area, as defined in section 473.121, must designate the standard VHF channel 6 for uniform regional channel usage as required in section 238.43.

Sec. 9. Minnesota Statutes 2002, section 238.11, subdivision 2, is amended to read:

Subd. 2. [ACCESS CHANNEL.] No cable communications ~~company~~ system may prohibit or limit a program or class or type of program presented over a leased channel or a channel made available for public access, governmental or educational purposes. Neither the ~~person operating a cable communications company system~~ person operating a cable communications system nor the officers, directors, or employees of the cable communications system is liable for any penalties or damages arising from programming content not originating from or produced by the cable communications ~~company system~~ system and shown on any public access channel, education access channel, government access channel, leased access channel, or regional channel.

Sec. 10. Minnesota Statutes 2002, section 238.22, subdivision 13, is amended to read:

Subd. 13. [PROPERTY OWNER.] "Property owner" means any person with a recorded interest in a multiple dwelling complex, or person known to the person operating a cable communications company system to be an owner, or the authorized agent of the person.

Sec. 11. Minnesota Statutes 2002, section 238.23, is amended to read:

238.23 [ACCESS REQUIRED.]

Subdivision 1. [PROVISION OF ACCESS.] A property owner or other person controlling access shall provide a cable communications ~~company system~~ system access to the property owner's multiple dwelling complex. The access provided must be perpetual and freely transferable by one person operating a cable communications company system to another. A cable communications ~~company system~~ system granted access, and its successors in interest, must fully comply with sections 238.22 to 238.27.

Subd. 2. [RESIDENT'S RIGHTS.] The intent of sections 238.22 to 238.27 is to give residents the freedom to choose among competing cable communications services and nothing in sections 238.22 to 238.27 ~~shall be interpreted to require~~ requires residents to hook up or subscribe to any services offered by any cable communications ~~company system~~ system or alternative provider of cable communications services.

Sec. 12. Minnesota Statutes 2002, section 238.24, subdivision 3, is amended to read:

Subd. 3. [INSTALLATION; BOND.] The facilities must be installed in an expeditious and workmanlike manner, must comply with applicable codes, and must be installed parallel to utility lines when economically feasible. A property owner may require a person operating a cable communications company system to post a bond or equivalent security in an amount not exceeding the estimated cost of installation of the cable communications facilities on the premises.

Any bond filed by a cable communications company system with a municipality ~~which that would provide coverage to the property owner as provided under this subdivision shall be considered to fulfill~~ fulfills the requirements of this subdivision.

Sec. 13. Minnesota Statutes 2002, section 238.24, subdivision 4, is amended to read:

Subd. 4. [INDEMNIFY FOR DAMAGE.] A person operating a cable communications company system shall indemnify a property owner for damage caused by the company in the installation, operation, maintenance, or removal of its facilities.

Sec. 14. Minnesota Statutes 2002, section 238.24, subdivision 6, is amended to read:

Subd. 6. [MASTER ANTENNA TELEVISION SYSTEM.] Nothing in sections 238.22 to 238.27 precludes a property owner from entering into an agreement for use of a master antenna television system by a person operating a cable communications company system or other television communications service.

Sec. 15. Minnesota Statutes 2002, section 238.24, subdivision 9, is amended to read:

Subd. 9. [NOT RETROACTIVE.] Nothing in sections 238.22 to 238.27 affects the validity of an agreement effective before June 15, 1983 between a property owner, a person operating a cable communications company system, or any other person providing cable communications services on or within the premises of the property owner.

Sec. 16. Minnesota Statutes 2002, section 238.24, subdivision 10, is amended to read:

Subd. 10. [CHANNEL CAPACITY.] (a) A property owner must provide access ~~by~~ to a franchised person providing a cable communications company system, as required under section 238.23, only if that cable company installs equipment with channel capacity sufficient to provide access to other providers of television programming or cable communications services so that residents or association members have a choice of alternative providers of those services. If the equipment is installed, the cable communications company system shall allow alternative providers to use the equipment. If some of the residents or association members choose to subscribe to the services of an alternative provider, the cable company that installed the equipment ~~shall~~ must be reimbursed by the other providers for the cost of equipment and installation on the property on a pro rata basis ~~which that~~ reflects the number of subscribers of each provider on that property to the total number of subscribers on that property. In determining the pro rata amount of reimbursement by any alternative provider, the cost of equipment and installation ~~shall~~ must be reduced to the extent of cumulative depreciation of that equipment at the time the alternative provider begins providing service.

(b) If equipment is already installed as of June 15, 1983, with channel capacity sufficient to allow access to alternative providers, the access and pro rata reimbursement provisions of paragraph (a) apply.

Sec. 17. Minnesota Statutes 2002, section 238.242, subdivision 1, is amended to read:

Subdivision 1. [PROVIDING ALTERNATIVE SERVICE.] Other providers of television programming or cable communications services shall notify the person operating a cable communications company system when a resident or association member occupying a dwelling unit in a multiple dwelling complex requests the services provided for by this section or section 238.241. After reaching agreement with the alternative service provider for reimbursement to be paid for use of the equipment, the cable communications company system shall make available the equipment necessary to provide the alternative service without unreasonable delay.

Sec. 18. Minnesota Statutes 2002, section 238.242, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL RECORDS MADE AVAILABLE.] The person operating a cable communications company system, upon written request, shall make available to the alternative provider financial records supporting the reimbursement cost requested.

Sec. 19. Minnesota Statutes 2002, section 238.25, subdivision 5, is amended to read:

Subd. 5. [SERVICE OF PETITION.] The petition must be served upon all persons named in the petition as property owners in the same manner as a summons in a civil action; except that, service may be made upon a property owner by three weeks' published notice if the person operating a cable communications company system, its or the person's agent or attorney, files an affidavit stating on belief that the property owner is not a resident of the state and that the company has mailed a copy of the notice to the property owner at the property owner's place of residence, or that after diligent inquiry the property owner's place of residence cannot be ascertained by the company. If the state is a property owner, the notice must be served upon the attorney general. Any property owner not served as provided under this paragraph is not bound by the proceeding unless the property owner voluntarily appears therein in the proceeding.

Sec. 20. Minnesota Statutes 2002, section 238.25, subdivision 10, is amended to read:

Subd. 10. [FINAL CERTIFICATE.] Upon completion of the proceedings, the attorney for the person operating the cable communications company system shall make a certificate describing the access acquired and the purpose or purposes for which acquired, and reciting the fact of final payment of all awards or judgments in relation thereto. The certificate must be filed with the court administrator and a certified copy thereof filed for record with the county recorder. The record is notice to all parties of the access to the premises described in the petition.

Sec. 21. Minnesota Statutes 2002, section 238.35, subdivision 1, is amended to read:

Subdivision 1. [LEGISLATIVE FINDINGS.] There is a long-standing legislative policy in the state of Minnesota to provide for the dedication or other provision of easements and public rights-of-way required by public utilities and cable communications companies systems. ~~Except for applicable governmental rules, these easements do not include any limitation on the type, number, or size of cables or related cable communication system components.~~ There is a public understanding and acceptance of the need of public utilities and cable communications companies systems to have the ability to use existing utility easements and public rights-of-way in order to provide new and improved cable communications services made possible by technological developments and to make changes to the cables or related cable communication systems components. Changing technology has caused and will continue to cause over time the development of new cable communications services requiring changing uses of existing utility easements and public rights-of-way. Cable communications companies systems have a need to use existing utility easements and public rights-of-way in order to deliver their services to the public. The addition of cable communications system components does not constitute an unanticipated or added burden on the real estate subject to the easements or public rights-of-way.

Sec. 22. Minnesota Statutes 2002, section 238.35, subdivision 4, is amended to read:

Subd. 4. [RESTRICTIONS ON USE.] (a) As a condition of using any utility easement, a cable communications company shall be system is subject to any burdens, duties, or obligations specified in the easement of the grantee of the easement.

(b) A cable communications company shall restore the real estate, and any landscaping or improvements thereon, to the condition they were in prior to entry within 30 days of completing the installation of the cables and related cable communications system components upon that real estate and to make changes to the cables or related cable communication systems components. Changing technology has caused and will continue to cause over time the development of new cable communications services requiring changing uses of existing utility easements. Restoration which cannot be completed during the winter months must be accomplished as promptly as weather conditions permit system seeking to use public rights-of-way is subject to the rights and obligations of sections 237.162 and 237.163, and any local right-of-way ordinance adopted under those statutes.

Sec. 23. Minnesota Statutes 2002, section 238.36, subdivision 2, is amended to read:

Subd. 2. [CABLE COMMUNICATIONS COMPANY'S SYSTEM'S EQUIPMENT.] "Cable

communications ~~company's~~ system's equipment" means aerial wires, cables, amplifiers, associated power supply equipment, and other transmission apparatus necessary for the proper operation of the cable communications system in a franchised area.

Sec. 24. Minnesota Statutes 2002, section 238.39, is amended to read:

238.39 [LEGAL AUTHORITY.]

Every pole, duct, and conduit agreement must contain a provision that the cable communications ~~company~~ system shall submit to the public utility company evidence of the cable communications ~~company's~~ system's lawful authority to place, maintain, and operate its facilities within public streets, highways, and other thoroughfares and shall secure the legally necessary permits and consents from federal, state, county, and municipal authorities to construct, maintain, and operate facilities at the locations of poles or conduit systems of the public utility company ~~which that~~ it uses. The parties to the agreement shall at all times observe and comply with, and the provisions of a pole, duct, and conduit agreement are subject to, the laws, ordinances, and rules ~~which that~~ in any manner affect the rights and obligations of the parties to the agreement, so long as the laws, ordinances, or rules remain in effect.

Sec. 25. Minnesota Statutes 2002, section 238.40, is amended to read:

238.40 [LIABILITY; INDEMNIFY PUBLIC UTILITY.]

(a) Every pole, duct, and conduit agreement must contain a provision that the cable communications ~~company~~ system shall defend, indemnify, protect, and save harmless the public utility from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any worker's compensation law or under any plan for employees' disability and death benefits, which may arise out of or be caused:

(1) by the erection, maintenance, presence, use, or removal of the cable communications ~~company's~~ system's cable, equipment, and facilities or by the proximity of the cables, equipment, and facilities of the parties to the agreement; or

(2) by any act of the cable communications ~~company~~ system on or in the vicinity of the public utility company's poles and conduit system, in the performance of the agreement. ~~Nothing contained in this section relieves the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control.~~

(b) The cable communications ~~company~~ system shall also indemnify, protect, and save harmless the public utility:

(1) from any and all claims and demands ~~which that~~ arise directly or indirectly from the operation of the cable communications ~~company's~~ system's facilities including taxes, special charges by others, claims, and demands (i) for damages or loss for infringement of copyright, (ii) for libel and slander, (iii) for unauthorized use of television broadcast programs, and (iv) for unauthorized use of other program material; and

(2) from and against all claims and demands for infringement of patents with respect to the manufacture, use, and operation of the cable communications equipment in combination with the public utility company's poles, conduit system, or otherwise.

(c) Nothing contained in this section relieves the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control.

Sec. 26. Minnesota Statutes 2002, section 238.43, subdivision 1, is amended to read:

Subdivision 1. ~~[DEFINITION REGIONAL CHANNEL ENTITY.]~~ For the purposes of this section "Regional channel entity" or "entity" means an independent, nonprofit corporation to govern the operation of the regional channel.

Sec. 27. [REVISOR INSTRUCTIONS.]

(a) The revisor of statutes shall delete the words "shall mean" and insert "means" where found in Minnesota Statutes, section 238.02.

(b) The revisor of statutes shall change the term "cable communications company" to "cable communications system" where found in Minnesota Statutes, chapter 238.

(c) In Minnesota Statutes, section 238.18, subdivision 1, the revisor of statutes shall delete paragraph (a) and renumber paragraph (b) as section 238.02, subdivision 1b, and renumber paragraph (c) as section 238.02, subdivision 34.

(d) In Minnesota Statutes, section 238.22, the revisor of statutes shall renumber subdivision 6 as section 238.02, subdivision 1a; subdivision 7 as section 238.02, subdivision 1c; subdivision 8 as section 238.02, subdivision 1d; subdivision 10 as section 238.02, subdivision 21a; subdivision 11 as section 238.02, subdivision 28a; subdivision 12 as section 238.02, subdivision 29a; subdivision 13 as section 238.02, subdivision 31a; and subdivision 14 as section 238.02, subdivision 31d.

(e) In Minnesota Statutes, section 238.36, the revisor of statutes shall renumber subdivision 2 as section 238.02, subdivision 3a; subdivision 3 as section 238.02, subdivision 20a; and subdivision 4 as section 238.02, subdivision 31b.

(f) The revisor of statutes shall renumber Minnesota Statutes, section 238.43, subdivision 1, as section 238.02, subdivision 31c.

Sec. 28. [REPEALER.]

Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, and 25; 238.082; 238.083, subdivisions 3 and 5; 238.084, subdivisions 2, 3, and 5; 238.12, subdivision 1a; 238.15; 238.35, subdivisions 2 and 3; and 238.36, subdivision 1, are repealed."

Delete the title and insert:

"A bill for an act relating to utilities; providing credits for incorrect directory assistance; regulating utility deposits; repealing obsolete rules; regulating cable franchises; regulating third-party billing practices; providing for expanded calling areas; providing for reduced rate regulation for local service; providing for uniform service standards; providing for consumer protection for wireless customers; amending Minnesota Statutes 2002, sections 237.01, by adding a subdivision; 237.06; 238.02, subdivision 3; 238.03; 238.08, subdivisions 1, 3, 4, by adding a subdivision; 238.081; 238.083, subdivisions 2, 4; 238.084, subdivision 1; 238.11, subdivision 2; 238.22, subdivision 13; 238.23; 238.24, subdivisions 3, 4, 6, 9, 10; 238.242, subdivisions 1, 3; 238.25, subdivisions 5, 10; 238.35, subdivisions 1, 4; 238.36, subdivision 2; 238.39; 238.40; 238.43, subdivision 1; 325E.02; proposing coding for new law in Minnesota Statutes, chapters 237; 325F; repealing Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, 25; 238.082; 238.083, subdivisions 3, 5; 238.084, subdivisions 2, 3, 5; 238.12, subdivision 1a; 238.15; 238.35, subdivisions 2, 3; 238.36, subdivision 1; Minnesota Rules, parts 7810.0100, subparts 16, 17, 18, 30, 32, 33, 39; 7810.0700; 7810.3400; 7810.3500; 7810.3600; 7810.3700; 7810.3800; 7810.4200; 7810.4400; 7810.4500; 7810.4600; 7810.4700; 7810.4800; 7810.5600; 7810.6900; 7810.8760; 7815.0100; 7815.0200; 7815.0300; 7815.0400; 7815.0500; 7815.0600."

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

SECOND READING OF SENATE BILLS

S.F. No. 2774 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Kubly moved that his name be stricken as a co-author to S.F. No. 982. The motion prevailed.

Senator Vickerman moved that his name be stricken as a co-author to S.F. No. 982. The motion prevailed.

Senator Sparks moved that his name be stricken as a co-author to S.F. No. 982. The motion prevailed.

Senator Skoe moved that his name be stricken as a co-author to S.F. No. 982. The motion prevailed.

Senator Cohen moved that the names of Senators Pogemiller and Johnson, D.E. be added as co-authors to S.F. No. 982. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Betzold, by request, introduced--

S.F. No. 3028: A bill for an act relating to retirement; increasing contribution rates for certain state employees; amending Minnesota Statutes 2002, sections 352.04, subdivisions 2, 3; 352D.04, subdivision 2.

Referred to the Committee on State and Local Government Operations.

Senators Wergin, Belanger and Hann introduced--

S.F. No. 3029: A bill for an act relating to education; repealing the requirement that a superintendent submit an annual targeted student passage rate report to the Department of Education; amending Minnesota Statutes 2002, section 123B.143, subdivision 1.

Referred to the Committee on Education.

Senators Neuville, Hann, Day, Michel and Larson introduced--

S.F. No. 3030: A bill for an act relating to state government; providing for the attorney general to be appointed by the governor; proposing an amendment to the Minnesota Constitution, article V, sections 1, 3, 4, 7; article VIII, section 2; article XI, sections 8, 10; amending Minnesota Statutes 2002, sections 8.01; 9.011, subdivision 1; 9.061, subdivision 3; 10A.25, subdivision 2; 10A.27, subdivision 1; 10A.31, subdivision 5; 10A.323; 11A.03; 94.341; 638.01; Minnesota Statutes 2003 Supplement, sections 4.06; 15.06, subdivision 1; 204B.11, subdivision 1; 204D.10, subdivision 2; 209.01, subdivision 2.

Referred to the Committee on State and Local Government Operations.

Senators Pariseau, Neuville, Gaither, Jungbauer and Koering introduced--

S.F. No. 3031: A bill for an act relating to game and fish; modifying lifetime deer hunting license provisions; amending Minnesota Statutes 2002, section 97A.473, subdivision 4.

Referred to the Committee on Environment and Natural Resources.

Senator Pogemiller introduced--

S.F. No. 3032: A bill for an act relating to veterans affairs; appropriating money for a grant to plan a veterans memorial on the banks of the Mississippi River.

Referred to the Committee on Finance.

Senator Pogemiller introduced--

S.F. No. 3033: A bill for an act relating to natural resources; appropriating money for the Mississippi Whitewater Trail.

Referred to the Committee on Finance.

Senator Nienow introduced--

S.F. No. 3034: A bill for an act relating to education finance; reducing funding for bus transit; increasing the general education formula allowance; amending Minnesota Statutes 2002, section 126C.10, subdivision 2; Laws 2003, First Special Session chapter 19, article 1, section 3.

Referred to the Committee on Finance.

Senator Gaither introduced--

S.F. No. 3035: A bill for an act relating to game and fish; permitting the use of scopes by visually impaired hunters for taking deer during the muzzleloader season; providing criminal penalties; amending Minnesota Statutes 2002, section 97B.031, by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess until 3:00 p.m. The motion prevailed.

The hour of 3:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

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 Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 3090 and 1867.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 7, 2004

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 3090: A bill for an act relating to economic development; reducing appropriations for economic development and certain other programs; appropriating money for economic development and other programs; modifying programs and practices; modifying provisions governing barbers and cosmetologists; regulating petroleum testing and fees; creating a revolving fund; modifying tobacco sales penalty provisions; granting extra unemployment benefits for certain military reservists; transferring powers and funds; renumbering sections; amending Minnesota Statutes 2002, sections 60A.14, subdivision 1; 154.01; 154.02; 154.03; 154.04; 154.06; 154.07, as amended; 154.08; 154.11; 154.12; 154.161, subdivisions 2, 4, 5, 7; 154.18; 154.19; 154.21; 154.22; 154.23; 154.24; 154.25; 155A.01; 155A.02; 155A.03, subdivisions 1, 2, 7, by adding subdivisions; 155A.045, subdivision 1; 155A.05; 155A.07, subdivisions 2, 8, by adding a subdivision; 155A.08, subdivisions 1, 2, 3; 155A.09; 155A.095; 155A.10; 155A.135; 155A.14; 155A.15; 155A.16; 177.23, subdivision 7; 182.653, subdivision 9; 214.01, subdivision 3; 239.011, by adding a subdivision; 239.101, subdivision 3; 326.975, subdivision 1; 327C.01, by adding a subdivision; 327C.02, subdivision 2; 327C.04, by adding a subdivision; 461.12, subdivision 2; 461.19; 462A.05, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 116J.70, subdivision 2a; 116J.8731, subdivision 5; 214.04, subdivision 3; 462A.03, subdivision 13; Laws 2003, chapter 128, article 10, section 4, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 446A; repealing Minnesota Statutes 2002, sections 155A.03, subdivisions 11, 13; 155A.04; 155A.06; Minnesota Statutes 2003 Supplement, section 239.101, subdivision 7; Minnesota Rules, part 2100.9300, subpart 1.

Senator Johnson, D.E. moved that H.F. No. 3090 be laid on the table. The motion prevailed.

H.F. No. 1867: A bill for an act relating to state government; appropriating money for environmental and natural resources purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 16A.125, by adding a subdivision; 84.83, subdivision 3; 84.9257; 84.928, subdivision 2; 84A.51, subdivision 2; 89.035; 97C.605, subdivision 2; 103F.225, subdivision 5; 115.06, subdivision 4; 115.55, subdivision 9; 115A.12; 116.92, subdivision 4; 116P.12, subdivision 1, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 84.026; 115.551; 115A.072, subdivision 1; 115B.20, subdivision 2; 473.845, subdivision 1; Laws 2003, chapter 128, article 1, section 10; proposing coding for new law in Minnesota Statutes, chapters 84; 89; 103G; 115; 116; repealing Minnesota Statutes 2002, section 115.55, subdivision 10.

Senator Johnson, D.E. moved that H.F. No. 1867 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated H.F. No. 2028 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 2028: A bill for an act relating to public safety; appropriating money for the courts, public safety, corrections, the Sentencing Guidelines Commission, public defenders, and other agencies and programs; providing a life penalty without the possibility of release for certain first degree criminal sexual conduct crimes; creating indeterminate sentences and mandatory life sentences for certain first through fourth degree criminal sexual conduct crimes; creating a new criminal sexual predatory conduct crime; establishing the Minnesota Sex Offender Review Board; providing procedures for operation of the review board; specifying when an offender may petition for conditional release; directing the Sentencing Guidelines Commission to designate presumptive

sentences for certain offenses; requiring the commissioner of corrections to establish criteria and procedures for reviewing offenders' petitions for release; allowing the Minnesota Sex Offender Review Board and the commissioner of corrections to proceed with expedited rulemaking; exempting the review board from contested case proceedings; granting the review board access to certain data; specifying that the Open Meeting Law does not apply to meetings and hearings of the Minnesota Sex Offender Review Board; providing a registration procedure when a person lacks a primary address; expanding the scope of the predatory offender registration law; requiring the commissioner of corrections to convene an end-of-confinement review committee to assess the risk level of certain offenders coming into Minnesota from another state and released from federal facilities; allowing community notification pursuant to a risk level assigned in another state; requiring the Bureau of Criminal Apprehension to forward registration and notification information on certain offenders to the Department of Corrections; regulating the sale of methamphetamine precursor drugs; authorizing reporting of suspicious transactions involving these drugs and providing civil immunity for so doing; requiring a methamphetamine educational program for retailers and consumers; further regulating while recodifying activities involving anhydrous ammonia; requiring courts to order restitution in certain situations involving controlled substances; imposing property restrictions in certain situations involving controlled substances; increasing the criminal penalties for possessing certain substances with the intent to manufacture methamphetamine; establishing new methamphetamine-related crimes; expanding the definition of "violent crime" for mandatory sentencing purposes; requiring that vehicles and other property used to manufacture methamphetamine indicate this in the title or deed; establishing a methamphetamine laboratory cleanup revolving fund and authorizing loans to assist counties and cities in conducting methamphetamine cleanup; expanding the crime of causing death while committing child abuse; treating probation officers the same as correctional employees for purposes of certain assaults; specifically including conduct involving sex trafficking in the promoting prostitution crime; modifying the distribution formula for prostitution and sex trafficking-related forfeiture proceeds; prohibiting nonvehicular evasive flight from a peace officer; establishing a crime for interfering with ambulance service personnel who are providing emergency care; increasing the criminal penalties for interfering with privacy; increasing the age of protected minor victims for enhanced penalties for this crime; providing for representation by the public defender; providing public defender access to government data; requiring the public defense co-payment to be deposited in the general fund; increasing the appropriation for fiscal year 2005; permitting Ramsey County to collect and receive a \$1 criminal surcharge in order to fund Ramsey County's petty misdemeanor diversion program; providing that when a person is arrested for driving while impaired, the arresting officer must invalidate and return the person's driver's license card for use as an identification card during the period of license suspension, revocation, or cancellation; clarifying DWI plate impoundment law; establishing an expedited process for the nonconsensual collection of a blood sample from an inmate when a corrections employee is significantly exposed to the potential transfer of a bloodborne pathogen; providing for the safety of emergency workers on highways; defining "appropriate reduced speed" when approaching or passing stopped emergency vehicle in certain circumstances; authorizing citation within four hours of offense; proscribing a penalty on owner or lessee of vehicle when driver fails to drive at appropriate reduced speed at the scene of an emergency; requiring certain information to be included in driver education curriculum and driver's manual; providing procedures for retention of DNA evidence; authorizing retired court commissioners to be appointed to perform judicial duties in the district court; providing increased reimbursement for bullet-resistant vests; prohibiting falsely reporting police misconduct; imposing criminal penalties; providing for the rights of victims of sexual assault; instructing the revisor to recodify and renumber statutes; making various technical and conforming changes; amending Minnesota Statutes 2002, sections 2.722, subdivision 1; 2.724, subdivision 3; 13.851, by adding a subdivision; 13D.01, subdivision 2; 152.135, subdivision 2; 168A.05, subdivision 3; 169.14, subdivision 3, by adding subdivisions; 169A.52, subdivision 7; 169A.60, subdivision 11; 169A.63, subdivision 8; 171.12, subdivision 3; 171.13, by adding a subdivision; 241.336, by adding a subdivision; 241.67, subdivision 3; 243.166, as amended; 243.167; 243.24, subdivision 2; 243.55, subdivision 1; 244.05, subdivisions 1, 3, 4, 5, 6, 7; 244.052, subdivisions 3, 4, by adding a subdivision; 244.195, subdivision 1; 253B.02, by adding a subdivision; 253B.07, subdivisions 1, 4; 253B.08, subdivisions 2, 5a; 253B.16, subdivision 2; 253B.18, subdivisions 4a, 4b, 4c, 5; 253B.185, subdivision 2, by adding a subdivision; 253B.19, subdivision 2; 253B.20, subdivision 3; 260C.163, subdivision 3; 299A.38,

subdivisions 2, 2a; 357.021, by adding a subdivision; 401.01, subdivision 2; 489.01, by adding a subdivision; 604.15, by adding a subdivision; 609.1095, subdivision 1; 609.117, subdivisions 1, 2; 609.1351; 609.185; 609.2231, subdivision 1; 609.321, subdivision 7, by adding a subdivision; 609.341, by adding subdivisions; 609.342; 609.343; 609.344; 609.345; 609.3452, subdivision 4; 609.347; 609.3471; 609.348; 609.353; 609.487, by adding a subdivision; 609.50, subdivision 1; 609.505; 609.5315, subdivision 1, by adding a subdivision; 609.746, subdivision 1; 609.748, subdivisions 2, 3a; 609.749, subdivisions 1, 2; 611.16; 611.215, subdivision 1; 611A.02, subdivision 2; 631.045; Minnesota Statutes 2003 Supplement, sections 152.021, subdivisions 2a, 3; 270A.03, subdivision 5; 357.021, subdivisions 6, 7; 609.2231, subdivision 3; 611.14; 611.17, subdivision 1; 611.25, subdivision 1; 611.26, subdivision 6; 611.272; proposing coding for new law in Minnesota Statutes, chapters 152; 244; 299A; 446A; 590; 609; proposing coding for new law as Minnesota Statutes, chapter 545A; repealing Minnesota Statutes 2002, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5; 243.166, subdivisions 1, 8; 299A.64; 299A.65; 299A.66; 486.055; 609.108; 609.109; Minnesota Statutes 2003 Supplement, section 611.18.

Senator Cohen moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 85, line 16, delete "2" and insert "1"

Page 170, delete line 44 and insert:

"Sec. 12. STATE LOTTERY"

Page 170, delete line 65

Page 171, delete lines 1 to 17

Senator Neuville requested division of the Cohen amendment as follows:

First portion:

Page 85, line 16, delete "2" and insert "1"

The question was taken on the adoption of the first portion of the Cohen amendment. The motion prevailed. So the first portion of the amendment was adopted.

Senator Cohen withdrew the remainder of his amendment.

CALL OF THE SENATE

Senator Cohen imposed a call of the Senate for the balance of the proceedings on H.F. No. 2028. The Sergeant at Arms was instructed to bring in the absent members.

Senator Kleis moved that H.F. No. 2028 be re-referred to the Committee on Finance.

The question was taken on the adoption of the motion.

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

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson	Berglin	Chaudhary	Dibble	Higgins
Bakk	Betzold	Cohen	Foley	Hottinger

Johnson, D.E.	Marko	Pappas	Saxhaug	Sparks
Kelley	Marty	Pogemiller	Scheid	Stumpf
Kubly	Metzen	Ranum	Skoe	Tomassoni
Langseth	Moua	Rest	Skoglund	Vickerman
Lourey	Murphy	Sams	Solon	Wiger

The motion did not prevail.

Senator Marko moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 165, after line 35, insert:

"Sec. 8. [TRANSIT STRIKE.]

Consistent with the public policies stated in Minnesota Statutes, section 179A.01, the commissioner of the Bureau of Mediation Services shall immediately upon the effective date of this section certify to binding arbitration the current dispute between the Metropolitan Council and Amalgamated Transit Union Local 1005. After the certification, the arbitration shall be governed by Minnesota Statutes, section 179A.16, including, without limitation, Minnesota Statutes, section 179A.16, subdivision 9, as would an arbitration concerning essential employees.

[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

Senator Limmer questioned whether the amendment was germane.

The President ruled that the amendment was germane.

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

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

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

The motion prevailed. So the amendment was adopted.

Senator Hann moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 164, after line 22, insert:

"Sec. 4. Laws 2003, First Special Session chapter 19, article 2, section 74, subdivision 2, is amended to read:

Subd. 2. [PROHIBITIONS.] ~~Until July 1, 2005,~~ Neither the commissioner of transportation, the metropolitan council, nor the Hennepin county regional rail authority may take any action or spend any money for planning, preliminary engineering, final design, or construction for light rail or commuter rail transit in the southwest transit way corridor."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Senator Reiter moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 164, after line 22, insert:

"Sec. 4. [TRANSFER OF TRANSIT OPERATIONS.]

The Metropolitan Council is directed to prepare a proposal for the 2005 legislature to provide for the operation of the metropolitan transit system by nongovernmental entities under contract with the Department of Transportation. The proposal must include:

(1) a process by which the Department of Transportation proposes to solicit and select bids for the operation of the transit system by private entities;

(2) a proposal for the orderly transfer of existing contracts and assets of the transit system to the selected transit operators;

(3) additional transit options, such as small vans, shuttles, and express operators;

(4) a proposed timeline for the transfer to begin no later than July 1, 2005, and providing for substantially all operations to be transferred by July 1, 2006; and

(5) a plan to permit the Metropolitan Council to continue to serve as the principal planning agency for transit operations in the seven-county metropolitan area.

The Metropolitan Council will present the proposal to the chair of the house committee on Local Government and Metropolitan Affairs and the senate committee on State and Local Government Operations by December 15, 2004. The Department of Transportation will cooperate with the Metropolitan Council in the preparation of the proposal and will provide all records, data, contracts, and any other information that may be necessary or useful in the preparation of the proposal.

[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 31, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Kleis moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 163, after line 30, insert:

"Sec. 3. Minnesota Statutes 2002, section 177.42, subdivision 6, is amended to read:

Subd. 6. [PREVAILING WAGE RATE.] "Prevailing wage rate" means:

(a) ~~The hourly basic hourly rate of pay plus the rate of contribution or cost for health and welfare benefits, vacation benefits, pension and retirement benefits, and any other fringe benefit of economic benefit value paid or made available to the largest number of workers majority of the employees engaged in the same class of labor within the area and includes, for the purposes of section 177.44, rental rates for truck hire paid to those who own and operate the truck.~~

(b) For contracts to which the state is a party for construction or maintenance of a highway, if no single rate is paid to the majority of the employees engaged in the same class of labor in the area, then the prevailing wage rate is the average of the hourly rates of pay plus the rate of contribution or cost for benefits, as described in paragraph (a), paid or made available to employees engaged in the same class of labor within the area, such average to be weighted by the number of employees to whom those rates are paid in the area. If no prevailing wage rate has been determined for that class of labor in the county in which the project is located or in which the largest single part of the project is located, within the last two years, then the prevailing wage rate is the prevailing wage rate determined for that class of labor in the county nearest to the project within the same region, as defined in Minnesota Rules, part 5200.1030, for which a prevailing wage rate for that class of labor has been determined within the last two years. If no prevailing wage has been determined for that class of labor for any county within the same region within the last two years, then there is no prevailing wage for that class of labor in the area.

(c) The prevailing wage rate may not be less than a reasonable and living wage.

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

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

Those who voted in the negative were:

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

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

Senator Ortman moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Pages 163 and 164, delete section 3

Page 165, delete section 7

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

Those who voted in the negative were:

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

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

Senator Kleis moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 164, line 9, delete "22.77" and insert "22.30"

Page 164, line 11, delete "1.75" and insert "2.22"

The question was taken on the adoption of the amendment.

Senator Murphy moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 17 and nays 48, as follows:

Those who voted in the affirmative were:

Day	Kiscaden	Limmer	Pariseau	Wergin
Fischbach	Kleis	McGinn	Rosen	
Frederickson	Koering	Neuville	Ruud	
Kierlin	Larson	Nienow	Senjem	

Those who voted in the negative were:

Anderson	Foley	Langseth	Ortman	Skoe
Bachmann	Gaither	LeClair	Pappas	Skoglund
Bakk	Hann	Lourey	Pogemiller	Solon
Belanger	Higgins	Marko	Ranum	Sparks
Berglin	Hottinger	Marty	Reiter	Stumpf
Betzold	Johnson, D.E.	Metzen	Rest	Tomassoni
Chaudhary	Johnson, D.J.	Michel	Robling	Vickerman
Cohen	Jungbauer	Moua	Sams	Wiger
Dibble	Kelley	Murphy	Saxhaug	
Dille	Kubly	Olson	Scheid	

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

Senator Nienow moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 162, after line 42, insert:

"Section 1. Minnesota Statutes 2002, section 126C.10, subdivision 2, is amended to read:

Subd. 2. [BASIC REVENUE.] The basic revenue for each district equals the formula allowance times the adjusted marginal cost pupil units for the school year. ~~The formula allowance for fiscal year 2001 is \$3,964. The formula allowance for fiscal year 2002 is \$4,068. The formula allowance for fiscal year years 2003 and subsequent years 2004 is \$4,601. The formula allowance for fiscal year 2005 and subsequent years is \$4,634.~~"

Page 164, after line 22, insert:

"Sec. 5. Laws 2003, First Special Session chapter 19, article 1, section 3, is amended to read:

Sec. 3. METROPOLITAN COUNCIL
TRANSIT

	56,810,000	57,910,000
		<u>24,910,000</u>

(a) The agency's budget base for fiscal year 2006 is ~~\$57,503,000~~ \$24,503,000 and for fiscal year 2007 is ~~\$58,753,000~~ \$25,753,000.

(b) Bus Transit

54,010,000	54,010,000	<u>21,010,000</u>
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In the first year, this appropriation is for bus system operations. In the second year, the appropriation is for metro mobility and may not be used for metro transit regular route services.

(c) Rail Operations

2,800,000	3,900,000
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This appropriation is for operations of the Hiawatha LRT line. The base for rail operations for fiscal year 2006 is \$4,050,000 and for fiscal year 2007 is \$5,300,000.

This appropriation is for paying 50 percent of operating costs for the Hiawatha light rail transit line after operating revenue and federal funds are used for light rail transit operations. The remaining operating costs up to a maximum of \$2,800,000 the first year and \$3,900,000 the second year are to be paid by the Hennepin county regional rail authority, using any or all of these sources:

- (1) general tax revenues of Hennepin county;
- (2) the authority's reserves; and
- (3) taxes levied under Minnesota Statutes, section 398A.04, subdivision 8, notwithstanding any provision in that subdivision that limits amounts that may be levied for light rail transit purposes.

By September 1, 2003, the metropolitan council shall submit to Hennepin county regional rail authority a proposed detailed operations

management plan for Hiawatha light rail transit, covering operations through June 30, 2005. The plan may include, without limitation, operating plans concerning formation and negotiation of contracts for management or other services, service schedules, fare policy, vehicle and facility maintenance, and staffing. The council may not implement or modify the plan without the approval of Hennepin county. Minnesota Statutes, section 473.392, does not apply to the procurement by the council of operating services for the Hiawatha light rail transit line.

(d) Budget Base Reduction Report

By December 15, 2003, and December 15, 2004, the chair of the metropolitan council shall report to the chairs of the senate and house of representatives committees with jurisdiction over transportation policy and finance regarding the distribution and impacts of the base budget reductions. The report must include a description and enumeration of program activities with reduced spending levels and the impacts on transit service levels and performance of the regular route and metro mobility systems. The report must identify the total number of positions that were reduced or eliminated through attrition or layoffs, the number of positions reduced or eliminated in each of the bargaining units represented within the council, and the impact on the number of women and minorities employed by the council."

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 23 and nays 41, as follows:

Those who voted in the affirmative were:

Bachmann	Gaither	Kleis	Neuville	Ruud
Day	Hann	Koering	Nienow	Senjem
Dille	Johnson, D.J.	Larson	Olson	Wergin
Fischbach	Kierlin	LeClair	Pariseau	
Frederickson	Kiscaden	McGinn	Rosen	

Those who voted in the negative were:

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

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

Senator Stumpf moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 43, delete lines 11 to 13 and insert:

"(4) the amount necessary to restore all or a portion of the net aid reductions under section 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (c), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount."

The motion prevailed. So the amendment was adopted.

Senator Tomassoni moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 55, after line 22, insert:

"Sec. 18. [NONREIMBURSED EDUCATION SERVICES.]

For fiscal years 2005 and 2006 only, Independent School District No. 712, Mountain Iron-Buhl, may bill allowable expenses for Minnesota resident students that are not reimbursed by aid to the district of residence and hold the providing district fiscally harmless for direct and indirect expenses for providing education to these students. Allowable expenses are limited to lease and rent costs and administrative costs. The department shall determine allowable expenses if contested by a resident district.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal years 2005 and 2006."

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 H.F. No. 2028, the unofficial engrossment, as follows:

Pages 42 to 55, delete article 5 and insert:

"ARTICLE 5

FACILITIES; NUTRITION; ACCOUNTING; OTHER PROGRAMS

Section 1. Minnesota Statutes 2003 Supplement, section 16A.152, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL REVENUES; PRIORITY.] (a) If on the basis of a forecast of general fund revenues and expenditures, the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the following accounts and purposes in priority order:

(1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000; and

(2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;

(3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent, excluding special education excess cost aid under section 125A.79; and

(4) the amount necessary to eliminate all or a portion of the property tax revenue recognition shift in section 123B.75, subdivision 5.

(b) The amounts necessary to meet the requirements of this section are appropriated from the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.

(c) To the extent that a positive unrestricted budgetary general fund balance is projected, appropriations under this section must be made before any transfer is made under section 16A.1522.

(d) The commissioner of finance shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter.

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

Sec. 2. Minnesota Statutes 2002, section 123B.12, is amended to read:

123B.12 [INSUFFICIENT FUNDS TO PAY ORDERS.]

(a) In the event that a district or a cooperative unit defined in section 123A.24, subdivision 2, has insufficient funds to pay its usual lawful current obligations, subject to section 471.69, the board may enter into agreements with banks or any person to take its orders. Any order drawn, after having been presented to the treasurer for payment and not paid for want of funds shall be endorsed by the treasurer by putting on the back thereof the words "not paid for want of funds," giving the date of endorsement and signed by the treasurer. A record of such presentment, nonpayment and endorsement shall be made by the treasurer. The treasurer shall serve a written notice upon the payee or the payee's assignee, personally, or by mail, when the treasurer is prepared to pay such orders. The notice may be directed to the payee or the payee's assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice. No order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice.

(b) A district may enter, subject to section 471.69, into a line of credit agreement with a financial institution. The amount of credit available must not exceed 95 percent of average expenditure per month of operating expenditures in the previous fiscal year. Any amount advanced must be repaid no later than 45 180 days after the day of advancement.

Sec. 3. Minnesota Statutes 2003 Supplement, section 123B.54, is amended to read:

123B.54 [DEBT SERVICE APPROPRIATION.]

(a) \$25,987,000 in fiscal year 2002, \$29,941,000 in fiscal year 2003, \$40,075,000 \$35,598,000 in fiscal year 2004, and \$39,774,000 \$31,220,000 in fiscal years year 2005, \$27,830,000 in fiscal year 2006, and \$24,872,000 in fiscal year 2007 and later are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 124D.118, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT.] In accordance with program guidelines, the commissioner shall reimburse each participating public or nonpublic school ~~nine~~ 14 cents for each half-pint of milk that is served to kindergarten students and is not part of a school lunch or breakfast reimbursed under section 124D.111 or 124D.1158.

Sec. 5. Minnesota Statutes 2003 Supplement, section 126C.10, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] (a) For fiscal year 2003, the general education revenue for each district equals the sum of the district's basic revenue, basic skills revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, and equity revenue.

(b) For fiscal year 2004 and later, the general education revenue for each district equals the sum of the district's basic revenue, extended time revenue, basic skills revenue, training and experience revenue, secondary sparsity revenue, elementary sparsity revenue, transportation sparsity revenue, total operating capital revenue, equity revenue, and transition revenue.

(c) For fiscal year 2006 and later, the commissioner shall adjust general education revenue, excluding referendum revenue, for each district to meet the balance requirement of subdivision 34.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006.

Sec. 6. Minnesota Statutes 2002, section 126C.10, is amended by adding a subdivision to read:

Subd. 34. [BALANCE REQUIREMENT.] The sum of a district's general education revenue under subdivision 1, paragraph (b), integration revenue under section 124D.86, and career and technical revenue under section 126C.457 divided by its average daily membership shall not exceed the greater of:

(1) the product of the formula allowance multiplied by 1.5; or

(2) the sum of the district's fiscal year 2005 general education revenue under subdivision 1, paragraph (b), integration revenue under section 124D.86, and career and technical revenue under section 126C.457 divided by its fiscal year 2005 average daily membership.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2006.

Sec. 7. Minnesota Statutes 2003 Supplement, section 126C.63, subdivision 8, is amended to read:

Subd. 8. [MAXIMUM EFFORT DEBT SERVICE LEVY.] (a) "Maximum effort debt service levy" means the lesser of:

(1) a levy in whichever of the following amounts is applicable:

(i) in any district receiving a debt service loan for a debt service levy payable in 2002 and thereafter, or granted a capital loan after January 1, 2002, a levy in total dollar amount computed at a rate of 40 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter;

(ii) in any district receiving a debt service loan for a debt service levy payable in 2001 or earlier, or granted a capital loan before January 2, ~~2001~~ 2002, a levy in a total dollar amount computed at a rate of ~~32~~ 28 percent of adjusted net tax capacity for taxes payable in 2002 and thereafter; or

(2) a levy in any district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted.

(b) The board in any district affected by the provisions of paragraph (a), clause (2), may elect instead to determine the amount of its levy according to the provisions of paragraph (a), clause (1). If a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of paragraph (a), clause (2), the liability of the district for the amount of the difference between the amount it levied under paragraph (a), clause (2), and the amount it would have levied under paragraph (a), clause (1), and for interest on the amount of that

difference, must not be satisfied and discharged pursuant to Minnesota Statutes 1988, or an earlier edition of Minnesota Statutes if applicable, section 124.43, subdivision 4.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005.

Sec. 8. Minnesota Statutes 2002, section 128D.11, subdivision 9, is amended to read:

Subd. 9. [NET DEBT DEFINED.] The net debt of the school district for the purposes of this limitation is the amount of bonds less the amount of all money and the face value of all securities then held as a sinking fund for the payment of such bonds, and shall not include school aid and tax anticipation certificates of indebtedness not in default or bonds issued to pay pension fund liabilities under section 475.52, subdivision 6.

Sec. 9. Laws 2003, First Special Session chapter 9, article 4, section 29, is amended to read:

Sec. 29. [GARAGE LEASE LEVY; SARTELL.]

For taxes payable in 2004, 2005, and 2006, independent school district No. 740 748, Sartell, may levy up to \$107,000 each year for the purpose of leasing a school bus storage facility. For taxes payable in 2007, Independent School District No. 748, Sartell, may levy up to \$115,000 for the purpose of leasing a school bus storage facility. The department of education shall include ~~this levy~~ these levies in the calculation of eligible building lease levy under Minnesota Statutes, section 126C.40, subdivision 1. ~~This levy~~ These levies shall not allow the district to exceed the \$100 per resident marginal cost pupil unit cap in that section. The district is eligible to make ~~this levy~~ these levies only if it sells its current school bus storage site to the city of Sartell and the district may not use ~~this levy~~ these levies as part of a lease purchase agreement to replace its current school bus storage facility.

Sec. 10. Laws 2003, First Special Session chapter 9, article 5, section 35, subdivision 3, is amended to read:

Subd. 3. [TRADITIONAL SCHOOL BREAKFAST; KINDERGARTEN MILK.] For traditional school breakfast aid and kindergarten milk under Minnesota Statutes, sections 124D.1158 and 124D.118:

\$3,088,000 <u>\$4,382,000</u>	.....	2004
\$3,217,000 <u>\$4,730,109</u>	.....	2005

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

Sec. 11. Laws 2003, First Special Session chapter 9, article 6, section 4, is amended to read:

Sec. 4. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SYSTEM SUPPORT.] For basic system support grants under Minnesota Statutes, section 134.355:

\$8,072,000 <u>\$8,312,000</u>	.....	2004
\$8,570,000	.....	2005

The 2004 appropriation includes \$1,456,000 for 2003 and ~~\$6,616,000~~ \$6,856,000 for 2004.

The 2005 appropriation includes ~~\$1,654,000~~ \$1,714,000 for 2004 and ~~\$6,916,000~~ \$6,856,000 for 2005.

Subd. 3. [REGIONAL LIBRARY TELECOMMUNICATIONS AID.] For regional library telecommunications aid under Minnesota Statutes, section 134.355:

\$1,200,000 <u>\$960,000</u>	2004
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\$1,200,000 2005

The 2004 appropriation includes \$960,000 for 2004.

The 2005 appropriation includes \$240,000 for 2004 and \$960,000 for 2005.

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

Sec. 12. [FORECASTING THE BASE BUDGET FOR EDUCATION.]

Notwithstanding Minnesota Statutes 2003 Supplement, section 16A.11, subdivision 3, paragraph (b), the appropriation base for fiscal years 2006 and 2007 for each forecast program with an appropriation in this act or in Laws 2003, First Special Session chapter 9, is the forecast appropriation level needed to fully fund that program.

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

Sec. 13. [FUND TRANSFERS.]

Subdivision 1. [FOLEY.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 51, Foley, may permanently transfer up to \$190,000 from its reserved operating capital account in its general fund to the undesignated general fund balance.

Subd. 2. [KIMBALL.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 739, Kimball, may permanently transfer up to \$150,000 from its reserved account for bus purchase, or any successor account, to its undesignated general fund balance.

Subd. 3. [BUTTERFIELD.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, for calendar years 2004 through 2006, on June 30 of each year, Independent School District No. 836, Butterfield, may permanently transfer up to \$50,000 from its reserved operating capital account in its general fund to its undesignated general fund balance and \$60,000 from its reserved bus purchase account in its general fund to its undesignated general fund balance. The total amount transferred for the three-year period must not total more than \$50,000 from the reserved operating capital account and \$60,000 from the reserved bus purchase account.

Subd. 4. [MCLEOD WEST.] Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, Independent School District No. 2887, McLeod West, may permanently transfer up to \$200,000 from its reserved operating capital account in its general fund to the undesignated fund balance.

Subd. 5. [M.A.C.C.R.A.Y.] (a) Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2004, upon approval of the commissioner of education, Independent School District No. 2180, M.A.C.C.R.A.Y., may permanently transfer up to \$230,000 from its reserved account for handicapped access to its undesignated general fund balance.

(b) Prior to making the fund transfer, Independent School District No. 2180, M.A.C.C.R.A.Y., must demonstrate to the commissioner's satisfaction that the district's school buildings are accessible to students and employees with disabilities.

Subd. 6. [NORTHEAST METRO.] Notwithstanding Minnesota Statutes, sections 123B.79; 123B.80; and 475.61, subdivision 4, on June 30, 2004, Intermediate School District No. 916, Northeast Metro, may permanently transfer up to \$240,000 from its debt redemption fund to its capital account in its general fund without making a levy reduction.

Subd. 7. [PILLAGER.] Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, Independent School District No. 116, Pillager, on June 30, 2004, may permanently transfer up to \$100,000 from its debt redemption fund to its general fund without making a levy reduction.

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

Sec. 14. [MAXIMUM EFFORT CAPITAL LOAN FORGIVEN; EAST CENTRAL.]

Subdivision 1. [SALE REQUIREMENTS.] Independent School District No. 2580, East Central, may sell its middle school building in accordance with Minnesota Statutes, section 16A.695. The net proceeds from the sale of the property must be paid to the commissioner of finance and deposited in the state bond fund.

Subd. 2. [OUTSTANDING LOAN BALANCE FORGIVEN.] Any remaining outstanding balance on the maximum effort capital loan issued in January 1982 to former Independent School District No. 566, Askov, after the application of the sale proceeds according to subdivision 1, is forgiven.

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

Sec. 15. [SCHOOL BUS LOAN; CARPENTER SCHOOL BUSES.]

Subdivision 1. [BUS LOAN REVENUE.] In fiscal year 2005 only, a school district may receive bus loan revenue equal to up to \$30,000 times the number of Carpenter school buses in its fleet between March 30, 2003, and March 30, 2004, that have been determined to have potentially defective welds and are subject to the limitations imposed by the Department of Public Safety. A school district that is eligible to receive revenue under this subdivision must approve a board resolution to receive revenue according to this section.

Subd. 2. [LEVY.] For taxes payable in 2005 through 2008, a school district that receives revenue under subdivision 1 must levy an amount equal to its bus loan revenue times .25.

Subd. 3. [GENERAL EDUCATION REVENUE WITHHOLDING.] For fiscal years 2006 through 2009, the Department of Education shall reduce the general education aid under Minnesota Statutes, section 126C.13, subdivision 4, for each district that receives revenue under subdivision 1 in an amount equal to the district's bus loan revenue times .25.

Sec. 16. [SUPPLEMENTARY LEVY AUTHORITY.]

(a) For taxes payable in 2005, 2006, and 2007 only, each school district, upon approval of a school board resolution, may levy up to \$12 times the adjusted marginal cost pupil units annually for one or more of the following uses:

- (1) outstanding disability access projects;
- (2) onetime health- and safety-related projects that are not eligible for health and safety revenue under Minnesota Statutes, section 123B.57;
- (3) outstanding construction deficit costs of school facilities shared with the community;
- (4) utility and other costs of operating a district-owned community center where the district colocates services with other local units of government, in proportion to the amount of time the district uses the facility;
- (5) the district's share of the costs of building noninstructional facilities that will be operated in cooperation with other local units of government;
- (6) the cost of leasing school-related storage facilities;
- (7) the costs associated with leases of administrative and classroom space shared with other school districts or higher education institutions;
- (8) outstanding building lease levy amounts under Minnesota Statutes, section 126C.40, subdivision 1; outstanding unemployment insurance amount under Minnesota Statutes, section 126C.43, subdivision 2; outstanding amount necessary for judgments against the district under Minnesota Statutes, section 126C.43, subdivision 3; and additional costs under the safe schools levy under Minnesota Statutes, section 126C.44;

(9) a school district whose total concentration of free and reduced lunch students increased between fiscal year 2003 and 2004 may utilize the revenue under this section, according to Minnesota Statutes, section 126C.13, subdivision 5;

(10) retired employee health benefits; or

(11) other district deferred maintenance projects or capital projects eligible under Minnesota Statutes, section 126C.10, subdivision 14.

(b) In a form and manner determined by the Department of Education, each district shall submit to the department the amounts levied under this section for each category in paragraph (a).

(c) The Department of Education shall not include the district levy amounts under this section in the calculation of eligible building lease levy under Minnesota Statutes, section 126C.40, subdivision 1.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005, 2006, and 2007.

Sec. 17. [TAX BASE ADJUSTMENTS, FERTILE-BELTRAMI.]

(a) The commissioner of education, when making offsetting levy adjustments between levy categories to ensure that each levy category is positive for Independent School District No. 599, Fertile-Beltrami, shall make such adjustments first between levy categories that are imposed on identical tax bases before making such adjustments between levy categories that are imposed on different tax bases. The commissioner may make offsetting levy adjustments between the general fund and the debt service fund, if necessary.

(b) The commissioner of education must make the offsetting levy adjustments according to the process in paragraph (a) until Independent School District No. 599, Fertile-Beltrami's current referendum authority, under Minnesota Statutes, section 126C.17, expires.

Sec. 18. [TELECOMMUNICATIONS/INTERNET ACCESS EQUITY AID.]

Subdivision 1. [COSTS TO BE SUBMITTED.] (a) A district or charter school shall submit its actual telecommunications/Internet access costs for the previous fiscal year, adjusted for any e-rate revenue received, to the department by August 15 of each year as prescribed by the commissioner. Costs eligible for reimbursement under this program are limited to the following:

(1) ongoing or recurring telecommunications/Internet access costs associated with Internet access, data lines, and video links providing:

(i) the equivalent of one data line, video link, or integrated data/video link that relies on a transport medium that operates at a speed of 1.544 megabytes per second (T1) for each elementary school, middle school, or high school under section 120A.05, subdivisions 9, 11, and 13, including the recurring telecommunications line lease costs and ongoing Internet access service fees; or

(ii) the equivalent of one data line or video circuit, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each district, including recurring telecommunications line lease costs and ongoing Internet access service fees;

(2) recurring costs of contractual or vendor-provided maintenance on the school district's wide area network to the point of presence at the school building up to the router, codec, or other service delivery equipment located at the point of presence termination at the school or school district;

(3) recurring costs of cooperative, shared arrangements for regional delivery of telecommunications/Internet access between school districts, postsecondary institutions, and public libraries including network gateways, peering points, regional network infrastructure, Internet2 access, and network support, maintenance, and coordination; and

(4) service provider installation fees for installation of new telecommunications lines or increased bandwidth.

(b) Costs not eligible for reimbursement under this program include:

(1) recurring costs of school district staff providing network infrastructure support;

(2) recurring costs associated with voice and standard telephone service;

(3) costs associated with purchase of network hardware, telephones, computers, or other peripheral equipment needed to deliver telecommunications access to the school or school district;

(4) costs associated with laying fiber for telecommunications access;

(5) costs associated with wiring school or school district buildings;

(6) costs associated with purchase, installation, or purchase and installation of Internet filtering; and

(7) costs associated with digital content, including on-line learning or distance learning programming, and information databases.

Subd. 2. [E-RATES.] To be eligible for aid under this section, a district or charter school is required to file an e-rate application either separately or through its telecommunications access cluster and to have a current technology plan on file with the Department of Education. Discounts received on telecommunications expenditures shall be reflected in the costs submitted to the department for aid under this section.

Subd. 3. [REIMBURSEMENT CRITERIA.] The commissioner shall develop criteria for approving costs submitted by school districts and charter schools under subdivision 1.

Subd. 4. [DISTRICT AID.] For fiscal year 2005 and later, a district or charter school's Internet access equity aid equals 90 percent of the district or charter school's approved cost for the previous fiscal year according to subdivision 1 exceeding \$15 times the district's adjusted marginal cost pupil units for the previous fiscal year.

Subd. 5. [TELECOMMUNICATIONS/INTERNET ACCESS SERVICES FOR NONPUBLIC SCHOOLS.] (a) Districts shall provide each year upon formal request by or on behalf of a nonpublic school, not including home schools, located in that district or area, ongoing or recurring telecommunications access services to the nonpublic school either through existing district providers or through separate providers.

(b) The amount of district aid for telecommunications access services for each nonpublic school under this subdivision equals the lesser of:

(1) 90 percent of the nonpublic school's approved cost for the previous fiscal year according to subdivision 1 exceeding \$10 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year; or

(2) the product of the district's aid per adjusted marginal cost pupil unit according to subdivision 4 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year.

(c) For purposes of this subdivision, nonpublic school pupils shall be weighted by grade level using the weighing factors defined in section 126C.05, subdivision 1.

(d) Each year, a district providing services under paragraph (a) may claim up to five percent of the aid determined in paragraph (b) for costs of administering this subdivision. No district may expend an amount for these telecommunications access services which exceeds the amount allocated under this subdivision. The nonpublic school is responsible for the Internet access costs not covered by this section.

(e) At the request of a nonpublic school, districts may allocate the amount determined in paragraph (b) directly to the nonpublic school to pay for or offset the nonpublic school's costs for telecommunications access services; however, the amount allocated directly to the nonpublic

school may not exceed the actual amount of the school's ongoing or recurring telecommunications access costs.

Subd. 6. [SEVERABILITY.] If any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.

Sec. 19. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sum indicated in this section is appropriated from the general fund to the Department of Education for the fiscal year designated.

Subd. 2. [INTERNET ACCESS EQUITY AID.] For telecommunications/Internet access cost equity aid:

\$4,500,000 2005

If the appropriation for fiscal year 2005 is insufficient, the aid for that year shall be prorated among participating schools and districts so as not to exceed the total authorized appropriation for that year. This is a onetime appropriation.

Subd. 3. [SCHOOL BUS LOAN REVENUE.] For school bus loan revenue under section 15:

\$3,630,000 2005 "

Correct the section totals and the appropriation summary

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 23 and nays 36, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Kiscaden	Michel	Ruud
Belanger	Hann	Kleis	Nienow	Senjem
Day	Johnson, D.J.	Larson	Olson	Wergin
Dille	Jungbauer	LeClair	Reiter	
Fischbach	Kierlin	Limmer	Robling	

Those who voted in the negative were:

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

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

Senator Bachmann moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 69, delete section 6

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 20 and nays 43, as follows:

Those who voted in the affirmative were:

Bachmann	Day	Fischbach	Gaither	Hann
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Johnson, D.J.	Larson	McGinn	Olson	Rosen
Jungbauer	LeClair	Neuville	Pariseau	Ruud
Kleis	Limmer	Nienow	Reiter	Wergin

Those who voted in the negative were:

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

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

Senator Larson moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 67, delete lines 14 to 20

Pages 68 and 69, delete section 5

Page 71, delete section 11

Pages 73 to 75, delete sections 16 to 18

Correct the section totals and the appropriation summary

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 28 and nays 36, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Robling moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 69, line 18, delete "one of"

Page 69, line 19, after "8" insert ", clause (3)"

The motion prevailed. So the amendment was adopted.

Senator Rosen moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 67, line 9, delete "(2,000,000)" and insert "(3,000,000)"

Page 67, after line 29, insert:

"Sec. 4. BOARD OF REGENTS OF THE
UNIVERSITY OF MINNESOTA

Subdivision 1. Total Appropriation
Changes

-0- 1,000,000

Subd. 2. Special Appropriation

-0- 1,000,000

This appropriation is for the Agricultural
Experiment Station, Minnesota Extension
Service to provide grants to Minnesota counties
for 4-H coordinators."

Correct the section totals and the appropriation summary

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 33, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Kiscaden	Michel	Robling
Bakk	Gaither	Kleis	Neuville	Rosen
Belanger	Hann	Koering	Nienow	Ruud
Day	Johnson, D.J.	Larson	Olson	Sams
Dille	Jungbauer	Limmer	Pariseau	Senjem
Fischbach	Kierlin	McGinn	Reiter	Wergin

Those who voted in the negative were:

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

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

Senator Sams moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 149, delete line 35 and insert:

"General -0- \$(710,000) \$(710,000)"

Page 150, delete line 2 and insert:

"TOTAL \$(460,000) \$(460,000)"

Page 150, delete lines 9 and 10 and insert:

"Subdivision 1. Total
Appropriations (1,310,000) (1,310,000)"

Page 150, delete line 12 and insert:

"General (1,560,000) (1,560,000)"

Page 150, line 16, delete "(2,600,000)" and insert "(759,000)"

Page 150, line 19, after the period, insert "This is a onetime reduction."

Page 151, after line 14, insert:

"Subd. 4. Cancellation

-0- (901,000)

The commissioner of finance shall cancel \$901,000 from the contaminated site cleanup and development account to the unrestricted fund balance in the general fund."

Page 159, after line 1, insert:

"Sec. 14. Minnesota Statutes 2002, section 270.97, is amended to read:

270.97 [DEPOSIT OF REVENUES.]

The commissioner shall deposit all revenues derived from the tax, interest, and penalties received from the county ~~in the contaminated site cleanup and development account~~ in the general fund."

Page 162, delete section 20

Correct the section totals and the appropriation summary

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Dibble moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 151, after line 14, insert:

"\$100,000 in the second year is for a grant to the Minnesota employment center for people who are deaf or hard-of-hearing. This appropriation is available until expended.

\$100,000 in the second year is for grants for programs that provide employment support services to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14."

The motion prevailed. So the amendment was adopted.

Senator Kubly moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 148, lines 22 to 32, reinstate the stricken language

Page 148, line 36, delete the new language and reinstate the stricken language

Page 149, line 4, delete "(3)" and insert "(6)"

The motion prevailed. So the amendment was adopted.

Senator Skoglund moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 83, delete section 7

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Ranum moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 167, after line 1, insert:

"Sec. 4. FINANCE

The commissioner of finance may use \$40,000 of the general fund appropriation in Laws 2003, First Special Session chapter 1, article 1, section 28, to pay unemployment insurance and other shutdown costs related to the elimination of the Office of Ombudsman for Corrections. The funds remain available until June 30, 2005."

Page 168, line 14, delete "286,000" and insert "336,000"

Page 170, line 51, delete everything after the comma

Page 170, delete line 52

Page 170, line 53, delete everything before "before"

Page 170, line 54, before the period, insert "that has not been committed to the prize of a lottery"

Page 226, after line 18, insert:

"Sec. 77. Laws 2003, First Special Session chapter 11, article 3, section 13, subdivision 1, is amended to read:

Subdivision 1. [CONSERVATION IMPROVEMENT PROGRAM; GENERAL EVALUATION.] (a) ~~The commissioner of commerce shall contract with~~ At the direction of the Legislative Audit Commission, the legislative auditor ~~or other independent third party for~~ shall conduct a review of:

(1) the cost-effectiveness of the conservation improvement program, Minnesota Statutes, section 216B.241;

(2) the relevant state statutes, to determine if conservation requirements could be eliminated or modified to ensure that conservation dollars are directed toward the most cost-effective conservation investments;

(2) (3) the relevant state rules, to determine if current rules allow or facilitate optimum conservation practices and procedures; and

(3) (4) the department of commerce's conservation regulatory processes, to determine if the regulatory review process currently employed results in optimum conservation investments.

(b) ~~The costs of the review under paragraph (a) may be recovered by the department commissioner of commerce shall assess \$100,000 as a general administrative expense under Minnesota Statutes, section 216C.052, subdivision 2, and transfer this money to the Office of the Legislative Auditor by September 1, 2004. The amount assessed under this paragraph is appropriated to the Office of the Legislative Auditor to conduct the review and to contract for technical assistance needed by the legislative auditor for the review.~~"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 170, delete line 44 and insert:

"Sec. 12. STATE LOTTERY"

Page 170, delete line 65

Page 171, delete lines 1 to 17

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

Senator Skoglund moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 185, line 26, before the semicolon, insert ", with the intent to discriminate"

The motion prevailed. So the amendment was adopted.

Senator Reiter moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 232, delete lines 12 to 27

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 12 and nays 50, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.J.	Limmer	Neuville	Pariseau
Gaither	Jungbauer	McGinn	Olson	Reiter
Hann	LeClair			

Those who voted in the negative were:

Anderson	Fischbach	Koering	Murphy	Scheid
Bakk	Foley	Kubly	Nienow	Senjem
Belanger	Frederickson	Langseth	Ortman	Skoe
Berglin	Higgins	Larson	Pappas	Skoglund
Betzold	Hottinger	Lourey	Pogemiller	Solon
Chaudhary	Johnson, D.E.	Marko	Ranum	Sparks
Cohen	Kelley	Marty	Rest	Stumpf
Day	Kierlin	Metzen	Robling	Tomassoni
Dibble	Kiscaden	Michel	Rosen	Vickerman
Dille	Kleis	Moua	Saxhaug	Wiger

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

Senator Kelley moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 174, line 26, delete "The following" and insert "Except as otherwise provided in this paragraph,"

Page 174, line 28, delete "is" and insert "are" and before the colon, insert ", including"

Page 175, delete lines 2 to 13 and insert:

"Financial or proprietary data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), in which the state board has considered an investment under these clauses, are nonpublic data under section 13.02, subdivision 9. As used in this paragraph, "financial or proprietary information" means information of a financial or proprietary character that has not been publicly disseminated or that is unavailable from other sources, the release of which would likely cause competitive harm to the state board or to the legal entity or to a portfolio company in which the legal entity holds an interest."

Page 176, line 31, delete "venture capital"

The motion prevailed. So the amendment was adopted.

Senator Kleis moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 569, after line 29, insert:

"ARTICLE 30
BONUS FOR VETERANS OF GLOBAL WAR ON TERRORISM;
CONSTITUTIONAL AMENDMENT

Section 1. [CONSTITUTIONAL AMENDMENT PROPOSED.]

An amendment to the Minnesota Constitution, article XIII, section 8, is proposed to the people. If the amendment is adopted, the section will read:

Sec. 8. The state may pay an adjusted compensation to persons who served in the armed forces of the United States during the period of the ~~Vietnam conflict or the Persian Gulf War~~ Global War on Terrorism. Whenever authorized and in the amounts and on the terms fixed by law, the state may expend monies and pledge the public credit to provide money for the purposes of this section. The duration of the ~~Vietnam conflict and the Persian Gulf War~~ Global War on Terrorism may be defined by law.

Sec. 2. [SUBMISSION TO VOTERS.]

The proposed amendment shall be submitted to the people at the 2004 general election. The question submitted shall be:

"Shall the Minnesota Constitution be amended to permit the payment of bonuses to veterans of the Global War on Terrorism.

Yes.....
No....."

Election procedures shall be as provided by law."

Amend the title accordingly

Senator Rest questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Nienow moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 188, after line 32, insert:

"Sec. 41. Minnesota Statutes 2003 Supplement, section 216C.41, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Qualified hydroelectric facility" means a hydroelectric generating facility in this state that:

(1) is located at the site of a dam, if the dam was in existence as of March 31, 1994; and

(2) begins generating electricity after July 1, 1994, or generates electricity after substantial refurbishing of a facility that begins after July 1, 2001.

(c) "Qualified wind energy conversion facility" means a wind energy conversion system in this state that:

(1) produces two megawatts or less of electricity as measured by nameplate rating and begins generating electricity after December 31, 1996, and before July 1, 1999;

(2) begins generating electricity after June 30, 1999, produces two megawatts or less of electricity as measured by nameplate rating, and is:

(i) owned by an entity that is not prohibited from owning agricultural land under section 500.24 and that owns the land where the facility is sited;

(ii) owned by a Minnesota small business as defined in section 645.445;

(iii) owned by a Minnesota nonprofit organization;

(iv) owned by a tribal council if the facility is located within the boundaries of the reservation;

(v) owned by a Minnesota municipal utility or a Minnesota cooperative electric association; or

(vi) owned by a Minnesota political subdivision or local government, including, but not limited to, a county, statutory or home rule charter city, town, school district, or any other local or regional governmental organization such as a board, commission, or association; or

(3) begins generating electricity after June 30, 1999, produces seven megawatts or less of electricity as measured by nameplate rating, and:

(i) is owned by a cooperative organized under chapter 308A other than a Minnesota cooperative electric association; and

(ii) all shares and membership in the cooperative are held by an entity that is not prohibited from owning agricultural land under section 500.24.

(d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system that:

(1) is located at the site of an agricultural operation;

(2) is owned by an entity that is not prohibited from owning agricultural land under section 500.24 and that owns or rents the land where the facility is located; and

(3) begins generating electricity after July 1, ~~2001~~ 1999.

(e) "Anaerobic digester system" means a system of components that processes animal waste based on the absence of oxygen and produces gas used to generate electricity."

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 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Hann moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 167, delete lines 40 to 42

Pages 229 and 230, delete section 80

Correct the section totals and the appropriation summary

Renumber the sections in sequence and correct the internal references

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 27 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator LeClair moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 216, after line 23, insert:

"[EFFECTIVE DATE.] This section is effective the day following compliance by the governing body of Washington County with Minnesota Statutes, section 645.021."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 54 and nays 7, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Chaudhary	Metzen	Rest	Sparks	Tomassoni
Foley	Pappas			

The motion prevailed. So the amendment was adopted.

Senator Kleis moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 167, line 49, delete "3,465,000" and insert "2,216,000"

Page 168, line 7, delete "20,353,000" and insert "21,602,000"

Page 168, line 10, delete "6,469,000" and insert "7,718,000"

Page 168, line 14, delete "286,000" and insert "1,585,000"

Page 168, delete lines 15 to 17 and insert:

"\$1,495,000 in fiscal year 2005 is for special agents and support staff to enforce predator offender compliance, scientists, and equipment to process DNA and other critical evidence, and to improve the predator offender database."

Correct the appropriation summary

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Kleis then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 191, after line 3, insert:

"Sec. 43. [290.433] [GLOBAL WAR ON TERRORISM CHECKOFF.]

Every individual who files an income tax return or property tax refund claim, and every corporation that files an income tax return, may designate on their return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that individual or corporation and paid into an account to be established for the purpose of paying bonuses to residents of this state who are veterans of the global war on terrorism. The commissioner shall, on the income tax returns and the property tax refund claim form, notify filers of their right to designate that a portion of their tax or refund shall be paid into the account for veterans of the global war on terrorism. The amounts designated under this section shall be annually appropriated to the commissioner of the Department of Veterans Affairs to pay bonuses to veterans of the global war on terrorism. All interest earned on money accrued shall be credited to the account by the commissioner of finance.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003, and for property tax refund claims for property taxes payable after December 31, 2003.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Pogemiller questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Kleis appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 37 and nays 25, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Bachmann	Gaither	Kleis	McGinn	Robling
Day	Hann	Koering	Michel	Rosen
Dille	Johnson, D.J.	Larson	Nienow	Ruud
Fischbach	Jungbauer	LeClair	Olson	Senjem
Frederickson	Kiscaden	Limmer	Reiter	Wergin

RECONSIDERATION

Having voted on the prevailing side, Senator Ranum moved that the vote whereby the Nienow amendment to H.F. No. 2028 was not adopted on April 7, 2004, be now reconsidered. The motion prevailed. So the vote was reconsidered.

Senator Ranum moved to amend the Nienow amendment to H.F. No. 2028, as follows:

Page 2, after line 19, insert:

"**[EFFECTIVE DATE.]** This section is effective July 1, 2005."

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

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

Senator Marty moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 170, line 44, delete "75,000" and insert "175,000"

Page 171, after line 17, insert:

"\$100,000 in fiscal year 2005 is from the lottery prize fund to the regents of the University of Minnesota for the medical school to do research on the treatment of problem gambling."

The motion prevailed. So the amendment was adopted.

Senator Nienow moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 212, after line 27, insert:

"Sec. 65. Minnesota Statutes 2002, section 414.031, is amended by adding a subdivision to read:

Subd. 9. [MORATORIUM ON ANNEXATION BY ORDER OF 500 ACRES OR MORE.] An order for annexation under this section must not include more than 1,000 acres. This subdivision does not apply to the metropolitan area, as defined in section 473.121, subdivision 2.

[EFFECTIVE DATE.] This section is effective the day following final enactment and expires June 1, 2006. This section applies to annexation proceedings pending or commenced on or after the effective date of this section.

Sec. 66. Minnesota Statutes 2002, section 414.033, is amended by adding a subdivision to read:

Subd. 14. [TEMPORARY LIMITATION ON ANNEXATION BY ORDINANCE.] Annexation under this section is limited to one proceeding per year per property owner for contiguous parcels of land. This subdivision does not apply to the metropolitan area, as defined in section 473.121, subdivision 2.

[EFFECTIVE DATE.] This section is effective the day following final enactment and expires June 1, 2006. This section applies to annexation proceedings pending or commenced on or after the effective date of this section."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Ranum questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Berglin moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 354, line 18, delete "this"

Page 391, line 17, after the semicolon, insert "adult mental health community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; adult mental health integrated fund grants under Minnesota Statutes, section 245.4661; consumer support grants under Minnesota Statutes, section 256.476; family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760;"

Page 414, line 14, after the period, insert "An "eligible employee with children" shall include the employee's spouse and children."

Page 423, lines 25 and 30, delete "shall" and insert "may"

Page 424, lines 7 and 9, delete "shall" and insert "may"

Page 469, line 25, delete "and listing available training opportunities"

Page 560, after line 27, insert:

"(e) MA Long-Term Care
Facilities

General	2,400,000	21,838,000"
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Page 560, line 28, delete "(e)" and insert "(f)"

Page 561, line 12, delete "(957,000)" and insert "4,915,000"

Page 561, delete lines 37 and 38 and insert:

"General Nonforecast	\$137,707,000	\$(123,233,000)	\$14,474,000
State Government Special Revenue	-0-	104,000	104,000"
Page 562, delete line 3 and insert:			
"Federal TANF	-0-	(1,724,000)	(1,724,000)"

Page 562, line 11, delete "\$ (155,325,000)" and insert "\$ (153,690,000)"

Page 562, line 13, delete "(125,664,000)" and insert "(122,229,000)"

Page 562, line 16, delete "76,000" and insert "(1,724,000)"

Page 562, after line 27, insert:

"[SPECIAL REVENUE FUND TRANSFER.]
Notwithstanding any law to the contrary, the commissioner shall transfer \$1,600,000 of uncommitted special revenue fund balances to the general fund upon final enactment. The actual transfers shall be identified within the standard information provided to the chairs of the house Health and Human Services Finance Committee and the senate Health, Human Services and Corrections Budget Division in December 2004."

Page 562, line 30, delete "(28,932,000)" and insert "(28,945,000)"

Page 562, line 34, delete "175,000" and insert "(1,625,000)"

Page 562, line 46, delete "(129,039,000)" and insert "(125,689,000)"

Page 563, line 54, after the period, insert "This appropriation shall not cancel and shall be available until expended."

Page 564, delete lines 29 to 45

Page 565, delete line 4 and insert:

"General	-0-	5,417,000
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[APPROPRIATION TRANSFER TO MNSCU.]
\$2,850,000 of the appropriation for fiscal year 2005 from the general fund to the commissioner shall be transferred to the Board of Trustees of MnSCU for the nursing and health care education plan as follows:

- (1) \$2,000,000 to expand the system's enrollment in registered nursing education programs;
- (2) \$300,000 to support practical nursing programs in regions of high need; and
- (3) \$550,000 to provide accessible learning opportunities to students through distance education and simulation experiences."

Page 565, line 7, delete "1,291,000" and insert "(1,291,000)"

Page 565, line 30, delete "872,000" and insert "846,000"

Page 565, delete lines 36 to 40 and insert:

"[MINNESOTA SEX OFFENDER PROGRAM APPROPRIATION.] Of the general fund appropriation, only \$4,262,000 in fiscal year 2004, and only \$5,520,000 in fiscal year 2005 shall be used for the Minnesota Sex Offender Program."

Page 566, delete lines 1 to 13

Page 566, line 16, delete "10,267,000" and insert "10,291,000"

Page 566, line 42, delete "76,000" and insert "100,000"

Page 566, line 48, delete "15,348,000" and insert "15,448,000"

Page 567, line 4, before "Assistance" insert "(a)"

Page 567, line 14, delete "TANF" and insert "general"

Page 567, after line 40, insert:

"(b) Economic Support Grants -
Other Assistance

General	-0-	100,000"
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Page 567, line 42, delete "(904,000)" and insert "(800,000)"

Page 567, after line 46, insert:

"State Government Special Revenue	-0-	104,000"
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Page 567, line 52, after "administration" insert "effective July 1, 2005. Notwithstanding section 5, this paragraph shall not expire"

Page 568, line 49, delete "\$150,000" and insert "\$100,000"

Page 569, line 1, delete "general" and insert "health care access"

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 569, line 26, after the period, insert "For purposes of determining the amount and number of ambulance service personnel longevity awards and the value of service credits, the board shall not take into account the amount transferred out of the trust account under this paragraph. Notwithstanding section 5, this paragraph shall not expire."

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 561, line 38, delete "\$126,668,000" and insert "\$126,429,000" and delete "\$11,039,000" and insert "\$11,278,000"

Page 562, line 11, delete "\$155,325,000" and insert "\$155,086,000"

Page 562, line 13, delete "(125,664,000)" and insert "(125,425,000)"

Page 562, line 46, delete "(129,039,000)" and insert "(128,800,000)"

Page 563, line 17, delete "(74,770,000)" and insert "(74,531,000)"

Page 563, after line 27, insert:

"[GREATER MINNESOTA HOSPITAL PAYMENT ADJUSTMENT.] Of the general fund appropriation for fiscal year 2005, \$239,000 is to the commissioner for greater Minnesota payment adjustments under Minnesota Statutes, section 256.969, subdivision 26. This appropriation shall become part of base level funding to the commissioner for the biennium beginning July 1, 2005."

Correct the section totals and the appropriation summary

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 525, after line 10, insert:

"Sec. 12. [256B.440] [NEW NURSING FACILITY REIMBURSEMENT SYSTEM ESTABLISHED.]

Subdivision 1. [IN GENERAL.] The commissioner shall establish a new nursing facility reimbursement system that provides facility-specific, prospective payment rates for nursing facilities participating in the medical assistance program. The rates shall be determined using a statistical and cost report filed by each nursing facility. The total payment rate shall be composed of four rate components: direct-care services, support services, external fixed, and property-related costs. The payment rate shall be derived from statistical measures of actual costs incurred in the operation of nursing facilities. From this cost basis, the components of the total payment rate shall be adjusted for quality of services provided, actual costs of operation of each facility, geographic variation in labor costs, rental value, and resident acuity.

Subd. 2. [ESTABLISHMENT BEGINNING OCTOBER 1, 2006.] Establishment of all or part of a nursing facility's rates under the new nursing facility reimbursement system shall begin on October 1, 2006. Rates shall be rebased annually. Effective January 1, 2005, each cost reporting year shall begin on January 1 and end on the following December 31. A cost report shall be filed by each nursing facility by March 31. Notice of rates shall be distributed by August 1 and the rates shall go into effect on October 1 for one year.

Subd. 3. [REPORTING OF BASELINE STATISTICAL AND COST INFORMATION.] (a) Nursing facilities shall file a baseline statistical and cost report on or before August 31, 2004, for the period July 1, 2003, to June 30, 2004. For the period between July 1, 2004, and December 31, 2004, the commissioner may collect supplemental statistical and cost information from facilities under sections 256B.431 and 256B.434.

(b) Data from the baseline statistical and cost report shall be used to develop and simulate payment rates. All nursing facilities shall provide information to the commissioner on a form and in a manner determined by the commissioner. The commissioner shall consult with stakeholders to develop the baseline statistical and cost report to collect all data necessary to develop and model the new nursing facility reimbursement system.

(c) Nursing facilities shall report as costs of the nursing facility only costs directly related to the operation of the nursing facility. The facility shall not include costs that are separately reimbursed by residents, medical assistance, or other payors. The commissioner may grant to facilities one

extension of up to ten days for the filing of this report if the extension is requested by August 1. The commissioner may separately require facilities to submit, in a manner specified by the commissioner, documentation of statistical and cost information included in the report to ensure accuracy in modeling payment rates and to perform audit and appeal review functions under this section. Facilities shall retain all records necessary to document statistical and cost information on the report for a period of no less than seven years.

(d) The commissioner may reject a report filed by a nursing facility under this section if the commissioner determines that the report has been filed in a form that is incomplete or inaccurate and the information is insufficient to model accurate payment rates. In the event that a report is rejected under this subdivision or is not submitted in a timely manner, the commissioner shall reduce the reimbursement rate to a nursing facility to 85 percent of its most recently established rate until the information is completely and accurately filed. The reinstatement of the total reimbursement rate shall be retroactive for no more than 90 days. A nursing facility whose report is rejected shall be given notice of the rejection, the reasons for the rejection, and an opportunity to correct the report prior to any rate reimbursement reduction. A nursing facility that does not submit a report shall be given a prior written notice of the reimbursement rate reduction.

Subd. 4. [DATA TO BE PUBLIC.] The data set in which all statistical and cost reports are compiled shall be public data at the time it has been used for statistical analyses for rate setting purposes.

Subd. 5. [MODELING ASSUMPTIONS.] The commissioner shall use the baseline statistical and cost report data to model and simulate the new nursing facility reimbursement system. Modeling shall be done using both budget neutrality and additional funding assumptions.

Subd. 6. [QUALITY MEASURES.] The commissioner shall determine, in consultation with stakeholders and experts, methods that shall be used to integrate quality measures into the new nursing facility reimbursement system. For the modeling and simulations of the baseline data, the quality measures shall include, at a minimum:

- (1) direct care hours per standardized resident day;
- (2) staff turnover;
- (3) staff retention;
- (4) use of pool staff;
- (5) proportion of beds in single bed rooms;
- (6) quality indicators from the minimum data set; and
- (7) survey deficiencies.

If data analysis of the modeling and simulations indicate revisions, deletions, or additional indicators are needed, those modifications shall be made prior to the initial rate year. The quality measures used to determine a component of the payment rates shall be established for a rate year using data submitted in the statistical and cost report from the associated reporting year, and using data from other sources related to the reporting year.

[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 motion prevailed. So the amendment was adopted.

Senator Kiscaden moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 449, after line 8, insert:

"[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to policies, contracts, and certificates issued or renewed on or after that date."

Page 449, after line 27, insert:

"[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to policies, contracts, and certificates issued or renewed on or after that date."

Page 487, after line 29, insert:

"Sec. 49. [OVARIAN CANCER SURVEILLANCE TESTS MANDATE EVALUATION.]

Notwithstanding Minnesota Statutes, section 62J.23, subdivision 3, the commissioner of commerce must conduct an evaluation in accordance with Minnesota Statutes, section 62J.26, on the mandated coverage for surveillance tests for ovarian cancer for women who are at risk for ovarian cancer as defined in Minnesota Statutes, section 62A.30. The commissioner must submit the report to the legislature in accordance with Minnesota Statutes, section 62J.26, subdivision 5, by January 15, 2005."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

Senator Kiscaden moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 31 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Berglin moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 462, after line 19, insert:

"Sec. 22. Minnesota Statutes 2003 Supplement, section 144.551, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.] (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds used for rehabilitation services in an existing hospital in Carver County serving the southwest suburban metropolitan area. Beds constructed under this clause shall not be eligible for reimbursement under medical assistance, general assistance medical care, or MinnesotaCare; or

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services; or

(17) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 356, line 18, before the period, insert "and shall require patient consent prior to the sharing of patient data across systems"

The motion prevailed. So the amendment was adopted.

Senator Hann moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 448, delete section 1

Pages 456 to 458, delete sections 10 to 13

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 27 and nays 37, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.J.	LeClair	Olson	Senjem
Belanger	Jungbauer	Limmer	Pariseau	Vickerman
Day	Kierlin	McGinn	Reiter	Wergin
Fischbach	Kleis	Michel	Rosen	
Gaither	Koering	Neuville	Ruud	
Hann	Larson	Nienow	Sams	

Those who voted in the negative were:

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

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

Senator Limmer moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 458, delete lines 2 to 7 and insert:

"Subd. 4. [CONSENT REQUIRED.] The commissioner must receive parental consent from the child's parent or legal guardian before the commissioner may collect identifying personal information concerning a child born with a birth defect. The consent must be in writing and in a form prescribed by the commissioner."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 36, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Limmer then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 356, line 31, after "federal" insert "and state"

The motion prevailed. So the amendment was adopted.

Senator Neuville moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 565, lines 42 and 43, delete "January 1, 2004" and insert "November 15, 2003"

Page 565, line 43, delete "ten" and insert "12"

Page 565, line 53, delete "January 1, 2004" and insert "November 15, 2003"

Senator Neuville then moved to amend the Neuville amendment to H.F. No. 2028 as follows:

Page 1, lines 4 and 7, delete "15" and insert "1"

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

Senator Neuville withdrew his amendment, as amended.

Senator Nienow moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 454, after line 8, insert:

"Sec. 7. Minnesota Statutes 2002, section 121A.22, subdivision 2, is amended to read:

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

(1) that can be purchased without a prescription;

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

Page 458, after line 31, insert:

"Sec. 15. Minnesota Statutes 2002, section 144.335, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient appoints in writing as a representative, including a health care agent acting pursuant to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services pursuant to sections 144.341 to 144.347 144.343, subdivision 1, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian. A parent or guardian is entitled to full access to a minor child's health records except as provided in Minnesota Statutes, chapter 13, and as otherwise explicitly provided in law.

(b) "Provider" means (1) any person who furnishes health care services and is regulated to furnish the services pursuant to chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 150A, 151, 153, or 153A, or Minnesota Rules, chapter 4666; (2) a home care provider licensed under section 144A.46; (3) a health care facility licensed pursuant to this chapter or chapter 144A; (4) a physician assistant registered under chapter 147A; and (5) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

(c) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

Sec. 16. Minnesota Statutes 2002, section 144.343, subdivision 1, is amended to read:

Subdivision 1. [MINOR'S CONSENT VALID.] Any minor may give effective consent for medical, mental and other health services to determine the presence of or to treat pregnancy and conditions associated therewith, venereal disease, alcohol and other drug abuse, and the consent of no other person is required, if the minor is a victim of incest, as defined by section 609.365. If a minor gives consent for health services as provided in this subdivision, the minor's parents must not have access to the minor's health records without expressed authorization from the minor.

Sec. 17. [144.348] [MINORS IN OUT-OF-HOME PLACEMENT.]

(a) The executive director, program manager, or a designee thereof, of a licensed residential facility providing outreach, community support, and short-term shelter for unaccompanied homeless, runaway, or abandoned youth may give effective consent for medical, mental, and other health services, except for family planning services, for a minor child served by the facility, and the consent of no other person is required if, for each health care service or visit to a health care provider, the executive director, program manager or a designee thereof makes an effort in good faith to obtain consent for the health services from the minor's parent or legal guardian. If a minor receives medical, mental, or other health services under this section, the minor's parents must not have access to the minor's health records without expressed authorization from the minor.

(b) For purposes of this section, a "residential facility" means any facility or program licensed by the commissioner of human services under chapter 245A to serve children in out-of-home placement, that have specific contracts with their host county to provide services to youth identified under paragraph (a).

Sec. 18. [144.349] [PARENT'S AGREEMENT WITH PROVIDER.]

(a) A parent or legal guardian of a minor child may enter into an agreement with a health care provider to permit the minor to consent for future health care services. The agreement may specify the services for which a minor child may consent, and the duration for which the agreement is effective. The agreement must be notarized by a notary public and must be signed by both the parent or guardian, and the agent of the health care provider.

(b) For purposes of this section, a "health care provider" means a person, health care facility, organization, or corporation licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care directly or through an arrangement with other health care providers, including health maintenance organizations licensed under chapter 62D.

Sec. 19. [144.3491] [ORGANIZATIONS RECEIVING TITLE X FUNDS.]

Nothing in sections 144.343, 144.348, or 144.349 requires an organization that receives federal funds under Title X of the Public Health Service Act to refrain from performing any service that is required to be provided as a condition of receiving Title X funds, as specified by the provisions of Title X or the Title X program guidelines for project grants for family planning services published by the United States Department of Health and Human Services."

Page 487, after line 29, insert:

"Sec. 55. [CONSTRUCTION.]

Minnesota Statutes, sections 121A.22, subdivision 2, 144.335, subdivision 1, 144.343, 144.348, and 144.349, shall not be construed to supersede the provisions of Minnesota Statutes, section 144.343, subdivisions 2 to 7."

Page 487, line 32, delete the first "and" and after "4" delete the comma and insert "; and 144.3441,"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Berglin questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Limmer appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 39 and nays 26, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

So the decision of the President was sustained.

Senator Nienow moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 362, after line 29, insert:

"Section 1. Minnesota Statutes 2002, section 43A.18, subdivision 6, is amended to read:

Subd. 6. [LEGISLATIVE AND JUDICIAL BRANCH COMPENSATION.] (a) Total compensation plans for unclassified employees of the legislature and of legislative commissions shall be determined by the legislature consistent with chapter 3, provided that insurance benefits for these employees and for legislators shall be determined by the Legislative Coordinating Commission, consistent with sections 43A.22 to 43A.30.

(b) Notwithstanding paragraph (a), the health benefits provided to legislators and to unclassified employees of the legislature, legislative committees, and legislative commissions shall not provide coverage for any health care service included on the list established under section 256B.0625, subdivision 46.

(c) Total compensation plans for unclassified employees of the judicial branch shall be determined by the appointing authority, unless other law provides a different method for establishing this compensation. Judicial branch compensation plans shall be consistent with sections 43A.22 to 43A.30."

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 22 and nays 42, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	LeClair	Nienow	Ruud
Day	Jungbauer	Limmer	Olson	Wergin
Dille	Kleis	McGinn	Pariseau	
Fischbach	Koering	Michel	Reiter	
Gaither	Larson	Neuville	Rosen	

Those who voted in the negative were:

Anderson	Cohen	Johnson, D.E.	Lourey	Ortman
Bakk	Dibble	Kelley	Marko	Pappas
Belanger	Foley	Kierlin	Marty	Pogemiller
Berglin	Frederickson	Kiscaden	Metzen	Ranum
Betzold	Higgins	Kubly	Moua	Rest
Chaudhary	Hottinger	Langseth	Murphy	Robling

Sams
Saxhaug
Scheid

Senjem
Skoe
Skoglund

Solon
Sparks

Stumpf
Tomassoni

Vickerman
Wiger

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

Senator Sams moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 354, after line 33, insert:

"(e) This section does not apply if the best practices 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."

The motion prevailed. So the amendment was adopted.

Senator LeClair moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 364, delete section 2

Pages 385 to 387, delete section 25

Pages 425 to 448, delete section 48

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 33, as follows:

Those who voted in the affirmative were:

Bachmann
Belanger
Day
Dille
Fischbach
Frederickson

Gaither
Hann
Johnson, D.J.
Jungbauer
Kierlin
Kleis

Koering
Larson
LeClair
Limmer
McGinn
Michel

Neuville
Nienow
Olson
Ortman
Pariseau
Reiter

Robling
Rosen
Ruud
Senjem
Vickerman
Wergin

Those who voted in the negative were:

Anderson
Bakk
Berglin
Betzold
Chaudhary
Cohen
Dibble

Foley
Higgins
Hottinger
Johnson, D.E.
Kelley
Kubly
Langseth

Lourey
Marko
Marty
Metzen
Murphy
Pappas
Pogemiller

Ranum
Rest
Sams
Saxhaug
Scheid
Skoe
Skoglund

Solon
Sparks
Stumpf
Tomassoni
Wiger

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

Senator Neuville moved his earlier amendment, as amended, to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 565, lines 42 and 43, delete "January 1, 2004" and insert "November 1, 2003"

Page 565, line 43, delete "ten" and insert "12"

Page 565, line 53, delete "January 1, 2004" and insert "November 1, 2003"

Senator Neuville then moved to further amend the Neuville amendment to H.F. No. 2028 as follows:

Page 1, line 5, delete "12" and insert "13.5"

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

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

Senator Neuville moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 472, after line 24, insert:

"Sec. 32. [145.417] [FAMILY PLANNING GRANT FUNDS NOT USED TO SUBSIDIZE ABORTION SERVICES.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following definitions apply.

(b) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally terminate the pregnancy of a female known to be pregnant, with an intention other than to prevent the death of the female, increase the probability of a live birth, preserve the life or health of the child after live birth, or remove a dead fetus.

(c) "Family planning grant funds" means funds distributed through the maternal and child health block grant program under sections 145.881 to 145.889, the family planning special projects grant program under section 145.925, the program to eliminate health disparities under section 145.928, or any other state grant program whose funds are or may be used to fund family planning services.

(d) "Family planning services" means preconception services that limit or enhance fertility, including methods of contraception, the management of infertility, preconception counseling, education, and general reproductive health care.

(e) "Nondirective counseling" means providing patients with:

(1) a list of health care providers and social service providers that provide prenatal care, childbirth care, infant care, foster care, adoption services, alternatives to abortion, or abortion services; and

(2) nondirective, nonmarketing information regarding such providers.

(f) "Public advocacy" means engaging in one or more of the following:

(1) regularly engaging in efforts to encourage the passage or defeat of legislation pertaining to the continued or expanded availability of abortion;

(2) publicly endorsing or recommending the election or defeat of a candidate for public office based on the candidate's position on the legality of abortion; or

(3) engaging in civil litigation against a unit of government as a plaintiff seeking to enjoin or otherwise prohibit enforcement of a statute, ordinance, rule, or regulation pertaining to abortion.

Subd. 2. [USES OF FAMILY PLANNING GRANT FUNDS.] No family planning grant funds may be:

(1) expended to directly or indirectly subsidize abortion services or administrative expenses; or

(2) paid or granted to an organization or an affiliate of an organization that provides abortion services, unless the affiliate is independent as provided in subdivision 4.

Subd. 3. [ORGANIZATIONS RECEIVING FAMILY PLANNING GRANT FUNDS.] An organization that receives family planning grant funds:

(1) may provide nondirective counseling relating to pregnancy but may not directly refer patients who seek abortion services to any organization that provides abortion services, including

an independent affiliate of the organization receiving family planning grant funds. For purposes of this clause, an affiliate is independent if it satisfies the criteria in subdivision 4, paragraph (a);

- (2) may not display or distribute marketing materials about abortion services to patients;
- (3) may not engage in public advocacy promoting the legality or accessibility of abortion; and
- (4) must be separately incorporated from any affiliated organization that provides abortion services.

Subd. 4. [INDEPENDENT AFFILIATES THAT PROVIDE ABORTION SERVICES.] (a) To ensure that the state does not lend its imprimatur to abortion services and to ensure that an organization that provides abortion services does not receive a direct or indirect economic or marketing benefit from family planning grant funds, an organization that receives family planning grant funds may not be affiliated with an organization that provides abortion services unless the organizations are 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.

(b) An organization that receives family planning grant funds 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 family planning grant funds.

Subd. 5. [INDEPENDENT AUDIT.] When an organization applies for family planning grant funds, the organization must submit with the grant application a copy of the organization's most recent independent audit to ensure the organization is in compliance with this section. The independent audit must have been conducted no more than two years before the organization submits its grant application.

Subd. 6. [ORGANIZATIONS RECEIVING TITLE X FUNDS.] Nothing in this section requires an organization that receives federal funds under Title X of the Public Health Service Act to refrain from performing any service that is required to be provided as a condition of receiving Title X funds, as specified by the provisions of Title X or the Title X program guidelines for project grants for family planning services published by the United States Department of Health and Human Services.

Subd. 7. [SEVERABILITY.] If any one or more provision, word, phrase, clause, sentence, or subdivision of this section, or the application to any person or circumstance, is found to be unconstitutional, it is declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed this section, and each provision, word, phrase, clause, sentence, or subdivision of it, regardless of the fact that any one or more provision, word, phrase, clause, sentence, or subdivision be declared unconstitutional."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Berglin questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Neuville appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 42 and nays 23, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Bachmann	Hann	Larson	Nienow	Rosen
Day	Johnson, D.J.	LeClair	Olson	Ruud
Fischbach	Jungbauer	Limmer	Pariseau	Wergin
Frederickson	Kleis	McGinn	Reiter	
Gaither	Koering	Neuville	Robling	

So the decision of the President was sustained.

Senator Kiscaden moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Pages 341 to 350, delete sections 1 to 4

Pages 350 and 351, delete section 6

Page 361, delete section 13

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 28 and nays 36, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Kiscaden then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Pages 413 to 416, delete section 40

Pages 424 and 425, 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 31 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Fischbach moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 472, after line 24, insert:

"Sec. 32. Minnesota Statutes 2002, section 145.1621, is amended by adding a subdivision to read:

Subd. 7. [COMPLIANCE.] The commissioner shall take reasonable steps to ensure compliance with this section, including, but not limited to, annual inspection of places where abortions are performed, according to chapter 14.

Sec. 33. Minnesota Statutes 2002, section 145.4135, is amended to read:

145.4135 [ENFORCEMENT; PENALTIES.]

(a) If the commissioner finds that a physician or facility has failed to submit the required form under section 145.4131 within 60 days following the due date, the commissioner shall notify the physician or facility that the form is late. A physician or facility who fails to submit the required form under section 145.4131 within 30 days following notification from the commissioner that a report is late is subject to a late fee of \$500 for each 30-day period, or portion thereof, that the form is overdue. If a physician or facility required to report under this section does not submit a report, or submits only an incomplete report, more than one year following the due date, the commissioner may take action to fine the physician or facility or may bring an action to require that the physician or facility be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt. Notwithstanding section 13.39 to the contrary, action taken by the commissioner to enforce the provision of this section shall be treated as private if the data related to this action, alone or in combination, may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles.

(b) If the commissioner fails to issue the public report required under section 145.4134 or fails

in any way to enforce this section, a group of 100 or more citizens of the state may seek an injunction in a court of competent jurisdiction against the commissioner requiring that a complete report be issued within a period stated by court order or requiring that enforcement action be taken.

(c) A physician or facility reporting in good faith and exercising due care shall have immunity from civil, criminal, or administrative liability that might otherwise result from reporting. A physician who knowingly or recklessly submits a false report under this section is guilty of a misdemeanor.

(d) The commissioner ~~may~~ shall take reasonable steps to ensure compliance with sections 145.4131 to 145.4133 and to verify data provided, including but not limited to, annual inspection of places where abortions are performed, in accordance with chapter 14.

(e) The commissioner shall develop recommendations on appropriate penalties and methods of enforcement for physicians or facilities who fail to submit the report required under section 145.4132, submit an incomplete report, or submit a late report. The commissioner shall also assess the effectiveness of the enforcement methods and penalties provided in paragraph (a) and shall recommend appropriate changes, if any. These recommendations shall be reported to the chairs of the senate Health and Family Security Committee and the house Health and Human Services Committee by November 15, 1998.

Sec. 34. Minnesota Statutes 2003 Supplement, section 145.4246, is amended by adding a subdivision to read:

Subd. 8. [COMPLIANCE.] The commissioner shall take reasonable steps to ensure compliance with sections 145.4241 to 145.4249 and to verify data provided, including, but not limited to, annual inspection of places where abortions are performed, according to chapter 14."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Berglin questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Fischbach appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 34 and nays 32, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

So the decision of the President was sustained.

Senator Kiscaden moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 361, after line 10, insert:

"Sec. 13. [62L.056] [SMALL EMPLOYER ALTERNATIVE BENEFIT PLANS.]

(a) Notwithstanding any provision of this chapter, chapter 363A, or any other law to the contrary, the commissioner of commerce shall by January 1, 2005, permit health carriers to offer alternative health benefit plans to small employers if the following requirements are satisfied:

(1) the health carrier is assessed less than ten percent of the total amount assessed by the Minnesota Comprehensive Health Association;

(2) the health plans must be offered in compliance with this chapter, except as otherwise permitted in this section;

(3) the health plans to be offered must be designed to enable employers and covered persons to better manage costs and coverage options through the use of co-pays, deductibles, and other cost-sharing arrangements;

(4) the health plans must be issued and administered in compliance with sections 62E.141; 62L.03, subdivision 6; and 62L.12, subdivisions 3 and 4, relating to prohibitions against enrolling in the Minnesota Comprehensive Health Association persons eligible for employer group coverage;

(5) loss-ratio requirements do not apply to health plans issued under this section;

(6) the health plans may alter or eliminate coverages that would otherwise be required by law, except for maternity coverage as required under federal law;

(7) each health plan must be approved by the commissioner of commerce; and

(8) the commissioner may limit the types and numbers of health plan forms permitted under this section, but must permit, as one option, a health plan form in which a health carrier may exclude or alter coverage of any or all benefits otherwise mandated by state law, except for maternity coverage as required under federal law.

(b) The definitions in section 62L.02 apply to this section as modified by this section.

(c) An employer may provide health plans permitted under this section to its employees, the employees' dependents, and other persons eligible for coverage under the employer's plan, notwithstanding chapter 363A or any other law to the contrary."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Senator Berglin moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 243, line 7, delete "or adjudicated delinquent"

Page 291, after line 1, insert:

"Sec. 5. Minnesota Statutes 2002, section 609.109, subdivision 2, is amended to read:

Subd. 2. [PRESUMPTIVE EXECUTED SENTENCE.] Except as provided in subdivision 3 or 4, if a person is convicted under sections 609.342 to ~~609.345~~ 609.3453, within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12, and 609.135. The court may stay the execution of the sentence imposed under this

subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse; and
- (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 609.109, subdivision 5, is amended to read:

Subd. 5. [PREVIOUS SEX OFFENSE CONVICTIONS.] For the purposes of this section, a conviction is considered a previous sex offense conviction if the person was convicted of a sex offense before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of sections 609.342 to ~~609.345~~ 609.3453 or any similar statute of the United States, this state, or any other state.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Foley moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 340, after line 35, insert:

"Sec. 29. [COLLATERAL SANCTIONS CROSS-REFERENCES; CREATION OF A NEW CHAPTER.]

Subdivision 1. [DEFINITION.] For purposes of this section:

(1) "automatically" means either by operation of law or by the mandated action of a designated official or agency; and

(2) "collateral sanction" means a legal penalty, disability, or disadvantage, however denominated, that is imposed on a person automatically when that person is convicted of or found to have committed a crime, even if the sanction is not included in the sentence. Collateral sanction does not include:

- (i) a direct consequence of the crime such as a criminal fine, restitution, or incarceration; or
- (ii) a requirement imposed by the sentencing court or other designated official or agency that the convicted person provide a biological specimen for DNA analysis, provide fingerprints, or submit to any form of assessment or testing.

Subd. 2. [REVISOR INSTRUCTION.] The revisor of statutes shall create a new chapter in the 2004 edition of Minnesota Statutes that contains cross-references to Minnesota laws imposing collateral sanctions. The revisor shall create a structure within this new chapter that categorizes these laws in a useful way to users and provides them with quick access to the cross-referenced laws. The revisor may consider, but is not limited to, using the following categories in the new chapter:

- (1) collateral sanctions relating to employment and occupational licensing;
- (2) collateral sanctions relating to driving and motor vehicles;
- (3) collateral sanctions relating to public safety;
- (4) collateral sanctions relating to eligibility for services and benefits;
- (5) collateral sanctions relating to property rights;
- (6) collateral sanctions relating to civil rights and remedies; and
- (7) collateral sanctions relating to recreational activities.

If possible, the revisor shall locate the new chapter in proximity to Minnesota Statutes, chapter 609, the Minnesota Criminal Code.

Subd. 3. [CAUTIONARY LANGUAGE.] The revisor shall include appropriate cautionary language at the beginning of the new chapter that notifies users of the following types of issues:

- (1) that the list of collateral sanctions laws contained in the chapter is intended to be comprehensive but is not necessarily complete;
- (2) that the inclusion or exclusion of a collateral sanction in the chapter is not intended to have any substantive legal effect;
- (3) that the cross-references used in the chapter are intended solely to indicate the contents of the cross-referenced section or subdivision and are not part of the cross-referenced statute;
- (4) that the cross-references are not substantive and may not be used to construe or limit the meaning of any statutory language; and
- (5) that users must consult the language of each cross-referenced law to fully understand the scope and effect of the collateral sanction it imposes.

Subd. 4. [CONSULTATION WITH LEGISLATORS AND LEGISLATIVE STAFF.] The revisor shall consult with legislative staff and the chairs of the senate and house committees having jurisdiction over criminal justice matters to identify laws that impose collateral sanctions and develop the appropriate categories and cross-references to use in the new chapter.

Sec. 30. [REPORT OF COLLATERAL SANCTIONS LAWS.]

Each state or local governmental agency having responsibility to impose a collateral sanction shall prepare a list that identifies all of the collateral sanctions within the authority's statutory jurisdiction. The agency shall submit the list to the Office of the Revisor of Statutes no later than September 1, 2004. State and local agencies covered by this section include, but are not limited to, state agencies, the judiciary, the state public defender's office, the attorney general's office, and county attorneys."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Day questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Foley appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 56 and nays 2, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Foley Solon

So the decision of the President was sustained.

Senator Kleis moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 237, line 37, delete "REPEAT"

Pages 238 to 242, delete sections 2 to 6 and insert:

"Sec. 2. Minnesota Statutes 2002, section 244.05, subdivision 4, is amended to read:

Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate serving a mandatory life sentence under section 609.106 or 609.342, subdivision 2, must not be given supervised release under this section. An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); or 609.109, subdivision 2a 3, must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years. An inmate serving a mandatory life sentence under section 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, must not be given supervised release under this section without having served the minimum term of imprisonment specified by the court in its sentence.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2002, section 244.05, subdivision 5, is amended to read:

Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); 609.109, subdivision 2a 3; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.3453, subdivision 2; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered

by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

(d) When considering whether to give supervised release to an inmate serving a life sentence under section 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, the commissioner shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration.

(e) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 609.108, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY INCREASED SENTENCE.] (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the Sentencing Guidelines ~~and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:~~

~~(1) the court is imposing an executed sentence, based on a Sentencing Guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 3 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal 609.3453;~~

~~(2) the court finds that the offender is a danger to public safety; and~~

~~(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.~~

~~(b) The court shall consider imposing a sentence under this section whenever a person is convicted of violating section 609.342 or 609.343.~~

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2002, section 609.108, subdivision 3, is amended to read:

Subd. 3. [PREDATORY CRIME.] ~~A predatory crime is a felony violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1. As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 23.~~

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2002, section 609.108, subdivision 6, is amended to read:

Subd. 6. [CONDITIONAL RELEASE.] At the time of sentencing under subdivision 1, the court shall provide that after the offender has ~~completed the sentence imposed, less any good time earned by an offender whose crime was committed before August 1, 1993~~ been released from prison, the commissioner of corrections shall place the offender on conditional release for the remainder of the statutory maximum period, ~~or for ten years, whichever is longer.~~

The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced, and the victim of the offender's crime, where available, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 609.109, subdivision 2, is amended to read:

Subd. 2. [PRESUMPTIVE EXECUTED SENTENCE.] Except as provided in subdivision 3 or 4, if a person is convicted under sections ~~609.342 609.343 to 609.345 609.3453~~, within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12, and 609.135. The court may stay the execution of the sentence imposed under this subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation:

- (1) incarceration in a local jail or workhouse; and
- (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2002, section 609.109, subdivision 4, is amended to read:

Subd. 4. [MANDATORY 30-YEAR SENTENCE.] (a) The court shall commit a person to the commissioner of corrections for not less than 30 years, notwithstanding the statutory maximum sentence under section 609.343, if:

(1) the person is convicted under section ~~609.342, subdivision 1, clause (c), (d), (e), or (f); or 609.343, subdivision 1, clause (c), (d), (e), or (f);~~ and

(2) the court determines on the record at the time of sentencing that:

(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and

(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.

(b) Notwithstanding subdivision 2 and sections 609.342, subdivision 3; and 609.343, subdivision 3, the court may not stay imposition or execution of the sentence required by this subdivision.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2002, section 609.109, subdivision 6, is amended to read:

Subd. 6. **[MINIMUM DEPARTURE FOR SEX OFFENDERS.]** The court shall sentence a person to at least twice the presumptive sentence recommended by the Sentencing Guidelines if:

(1) the person is convicted under section ~~609.342, subdivision 1, clause (e), (d), (e), or (f);~~ 609.343, subdivision 1, clause (c), (d), (e), or (f); or 609.344, subdivision 1, clause (c) or (d); and

(2) the court determines on the record at the time of sentencing that the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2002, section 609.109, subdivision 7, is amended to read:

Subd. 7. **[CONDITIONAL RELEASE OF SEX OFFENDERS.]** (a) Notwithstanding ~~the statutory maximum sentence otherwise applicable to the offense or any provision of the Sentencing Guidelines,~~ when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345, or 609.3453, the court shall provide that after the person has ~~completed the sentence imposed~~ been released from prison, the commissioner of corrections shall place the person on conditional release for the remainder of the person's life.

~~If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release.~~

~~If the person was convicted for a violation of one of those sections after a previous sex offense conviction as defined in subdivision 5, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.~~

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include various means of paying for this treatment, including co-payments from offenders, payment or reimbursement from third parties, payments from local agencies, and funding from other sources, as these sources are identified. This section does not require the commissioner to accept or retain an offender in a treatment program.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Page 243, delete section 8

Page 243, line 15, delete "24" and insert "23"

Page 243, delete lines 23 to 36

Page 244, delete lines 1 to 3 and insert:

~~"Subd. 2. [PENALTY.] (a) Except as otherwise provided in section 609.109, A person convicted under subdivision 1 may or convicted for an attempted violation of subdivision 1 shall be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both life.~~

~~(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines."~~

Pages 244 to 248, delete sections 11 to 18 and insert:

"Sec. 14. Minnesota Statutes 2002, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) ~~Except as otherwise provided in section 609.109, A person convicted under subdivision 1 may shall be sentenced to imprisonment for not more than 25 years or life. The person may also be sentenced to a payment of a fine of not more than \$35,000, or both. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.~~

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that ~~an executed sentence~~ a term of imprisonment of ~~90~~ 60 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h) as the minimum term of imprisonment under paragraph (a). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2002, section 609.344, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 ~~may shall~~ be sentenced to imprisonment for ~~not more than 15 years or life~~. The person may also be sentenced to a payment of a fine of not more than \$30,000, ~~or both~~. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2002, section 609.345, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 ~~may shall~~ be sentenced to imprisonment for ~~not more than ten years or life~~. The person may also be sentenced to a payment of a fine of not more than \$20,000, ~~or both~~. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 17. [609.3453] [CRIMINAL SEXUAL CONDUCT IN THE SIXTH DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the sixth degree if the person commits a predatory crime that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Subd. 2. [PENALTY.] A person convicted under subdivision 1 shall be sentenced to imprisonment for life. The person may also be sentenced to payment of a fine of not more than \$20,000. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Page 248, delete lines 13 and 14 and insert:

"Minnesota Statutes 2002, sections 609.108, subdivision 2; 609.109, subdivision 3; 609.342, subdivision 3; 609.343, subdivision 3; 609.344, subdivision 3; and 609.345, subdivision 3, are repealed."

Page 286, delete lines 16 to 19 and insert "sentence under section 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, the commissioner of"

Page 287, delete lines 15 to 18 and insert "mandatory life sentence under section 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, who has not been"

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 36, as follows:

Those who voted in the affirmative were:

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

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	Scheid	
Cohen	Kubly	Neuville	Skoe	
Dibble	Langseth	Pappas	Skoglund	
Foley	Lourey	Pogemiller	Solon	

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

Senator Kleis then moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 237, line 37, delete "REPEAT"

Page 238, delete lines 17 to 20 and insert "mandatory life sentence under section 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, must not be"

Page 238, delete lines 32 to 35 and insert "(5), or (6); 609.109, subdivision 2a 3; 609.342,

subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.3453, subdivision 2; or 609.385 after"

Page 239, delete lines 26 to 28 and insert "subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, the"

Page 240, line 10, strike everything after "Guidelines"

Page 240, strike lines 11 and 12

Page 240, line 13, strike everything before the comma

Page 241, line 18, delete "24" and insert "23"

Pages 241 and 242, delete section 6 and insert:

"Sec. 6. Minnesota Statutes 2002, section 609.108, subdivision 6, is amended to read:

Subd. 6. [CONDITIONAL RELEASE.] At the time of sentencing under subdivision 1, the court shall provide that after the offender has ~~completed the sentence imposed, less any good time earned by an offender whose crime was committed before August 1, 1993~~ been released from prison, the commissioner of corrections shall place the offender on conditional release for the remainder of the statutory maximum period, ~~or for ten years, whichever is longer.~~

The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced, and the victim of the offender's crime, where available, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

Sec. 7. Minnesota Statutes 2002, section 609.109, subdivision 7, is amended to read:

Subd. 7. [CONDITIONAL RELEASE OF SEX OFFENDERS.] (a) ~~Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the Sentencing Guidelines, when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345, or 609.3453, the court shall provide that after if the person has completed the sentence imposed is ever released from prison,~~ the commissioner of corrections shall place the person on conditional release for the remainder of the person's life.

~~If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release.~~

~~If the person was convicted for a violation of one of those sections after a previous sex offense conviction as defined in subdivision 5, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.~~

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's

conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include various means of paying for this treatment, including co-payments from offenders, payment or reimbursement from third parties, payments from local agencies, and funding from other sources, as these sources are identified. This section does not require the commissioner to accept or retain an offender in a treatment program.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Page 243, delete section 8

Page 243, line 15, delete "24" and insert "23"

Pages 243 to 248, delete sections 10 to 18 and insert:

"Sec. 10. Minnesota Statutes 2002, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) ~~Except as otherwise provided in section 609.109, A person convicted under subdivision 1 may shall be sentenced to imprisonment for not more than 30 years or life. The person may also be sentenced to a payment of a fine of not more than \$40,000, or both. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.~~

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that ~~an executed sentence of 144~~ a term of imprisonment of 96 months must be imposed on an offender convicted of violating this section as the minimum term of imprisonment under paragraph (a). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2002, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] (a) ~~Except as otherwise provided in section 609.109, A person convicted under subdivision 1 may shall be sentenced to imprisonment for not more than 25 years or life. The person may also be sentenced to a payment of a fine of not more than \$35,000, or both. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.~~

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that ~~an executed sentence~~ a term of imprisonment of 90 60 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h) as the minimum term of imprisonment under paragraph (a). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2002, section 609.344, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 ~~may shall~~ be sentenced to imprisonment for ~~not more than 15 years or life~~. The person may also be sentenced to a payment

of a fine of not more than \$30,000, ~~or both.~~ At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2002, section 609.345, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 ~~may~~ shall be sentenced to imprisonment for ~~not more than ten years or life.~~ The person may also be sentenced to a payment of a fine of not more than \$20,000, ~~or both.~~ At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 14. [609.3453] [CRIMINAL SEXUAL CONDUCT IN THE SIXTH DEGREE.]

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the sixth degree if the person commits a predatory crime that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Subd. 2. [PENALTY.] A person convicted under subdivision 1 shall be sentenced to imprisonment for life. The person may also be sentenced to payment of a fine of not more than \$20,000. At the time of sentencing, the court shall specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Page 248, delete lines 13 and 14 and insert:

"Minnesota Statutes 2002, sections 609.108, subdivision 2; 609.342, subdivision 3; 609.343, subdivision 3; 609.344, subdivision 3; and 609.345, subdivision 3, are repealed."

Page 286, delete lines 16 to 19 and insert "sentence under section 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, the commissioner of"

Page 287, delete lines 15 to 18 and insert "mandatory life sentence under section 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; or 609.3453, subdivision 2, who has not been"

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	Michel	Reiter
Belanger	Hann	Koering	Nienow	Robling
Day	Johnson, D.J.	Larson	Olson	Ruud
Dille	Jungbauer	LeClair	Ortman	Senjem
Fischbach	Kierlin	Limmer	Ourada	Wergin
Frederickson	Kiscaden	McGinn	Pariseau	Wiger

Those who voted in the negative were:

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

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

Senator McGinn moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Pages 324 and 325, delete section 13 and insert:

"Sec. 13. Minnesota Statutes 2002, section 609.505, is amended to read:

609.505 [FALSELY REPORTING CRIME.]

Subdivision 1. [FALSE REPORTING.] Whoever informs a law enforcement officer that a crime has been committed or otherwise provides false information to the officer, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Subd. 2. [REPORTING POLICE MISCONDUCT.] (a) Whoever informs, or causes information to be communicated to, a public official, as defined in section 609.415, subdivision 1, or an employee thereof, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows:

(1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or

(2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

(b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

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 32 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

ADJOURNMENT

Senator Koering moved that the Senate do now adjourn until 12:00 noon, Thursday, April 8, 2004.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 4 and nays 59, as follows:

Those who voted in the affirmative were:

Belanger	Koering	Olson	Robling
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Those who voted in the negative were:

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

The motion did not prevail.

Senator Scheid moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Pages 298 and 299, delete section 1

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 42 and nays 22, as follows:

Those who voted in the affirmative were:

Anderson	Gaither	Kubly	Olson	Scheid
Bachmann	Hann	Larson	Ortman	Senjem
Bakk	Hottinger	LeClair	Ourada	Solon
Belanger	Johnson, D.J.	Limmer	Pariseau	Stumpf
Chaudhary	Jungbauer	McGinn	Reiter	Vickerman
Day	Kierlin	Michel	Rest	Wergin
Dille	Kiscaden	Moua	Robling	
Fischbach	Kleis	Neuville	Ruud	
Frederickson	Koering	Nienow	Saxhaug	

Those who voted in the negative were:

Berglin	Dibble	Johnson, D.E.	Lourey	Metzen
Betzold	Foley	Kelley	Marko	Murphy
Cohen	Higgins	Langseth	Marty	Ranum

Rosen
SamsSkoe
Skoglund

Sparks

Tomassoni

Wiger

The motion prevailed. So the amendment was adopted.

Senator Ranum moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 280, after line 10, insert:

"Sec. 8. Minnesota Statutes 2002, section 253B.18, subdivision 5, is amended to read:

Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.] (a) A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. A patient may not petition the special review board for six months following commitment under subdivision 3 or following the final disposition of any previous petition and subsequent appeal by the patient. The medical director may petition at any time.

(b) Fourteen days prior to the hearing, the committing court, the county attorney of the county of commitment, the designated agency, interested person, the petitioner, and the petitioner's counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The patient may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing. The board shall provide the commissioner with written findings of fact and recommendations within 21 days of the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is signed. No order by the commissioner shall be effective sooner than 30 days after the order is signed, unless the county attorney, the patient, and the commissioner agree that it may become effective sooner.

(c) The special review board shall hold a hearing on each petition prior to making its recommendation to the commissioner. The special review board proceedings are not contested cases as defined in chapter 14. Any person or agency receiving notice that submits documentary evidence to the special review board prior to the hearing shall also provide copies to the patient, the patient's counsel, the county attorney of the county of commitment, the case manager, and the commissioner.

(d) Prior to the final decision by the commissioner, the special review board may be reconvened to consider events or circumstances that occurred subsequent to the hearing.

(e) In making its recommendations, the special review board or commissioner must consider any statements received from victims under subdivision 5a.

Sec. 9. Minnesota Statutes 2002, section 253B.18, is amended by adding a subdivision to read:

Subd. 5a. [VICTIM NOTIFICATION OF PETITION AND RELEASE; RIGHT TO SUBMIT STATEMENT.] (a) As used in this subdivision:

(1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are sexually motivated;

(2) "victim" means a person who has incurred loss or harm as a result of a crime the behavior for which forms the basis for a commitment under this section or section 253B.185; and

(3) "convicted" and "conviction" include findings under Minnesota Rules of Criminal Procedure, Rule 20.02, that the elements of a crime have been proved.

(b) A county attorney who files a petition to commit a person under this section or section

253B.185 shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

(c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this section or section 253B.185 from a treatment facility, the treatment facility head shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the special review board or the commissioner with respect to the person. To the extent possible, the notice must be provided at least seven days before any special review board hearing or before a determination on a pass plan.

(d) This subdivision applies only to victims who have requested notification by contacting in writing the county attorney in the county where the conviction for the crime occurred. A county attorney who receives a request for notification under this paragraph shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a person entitled to statutory notice under subdivision 5."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Rosen moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 235, line 12, delete "120,000" and insert "170,000"

Page 235, delete lines 51 to 54

Page 236, delete lines 1 to 24

Page 236, line 25, delete "13" and insert "12"

Pages 298 to 317, delete article 18 and insert:

"ARTICLE 18

METHAMPHETAMINE PROVISIONS

Section 1. Minnesota Statutes 2002, section 82.197, subdivision 6, is amended to read:

Subd. 6. [MATERIAL FACTS.] (a) Licensees shall disclose to any prospective purchaser all material facts of which the licensees are aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensees are aware.

(b) It is not a material fact relating to real property offered for sale and no regulatory action shall be brought against a licensee for failure to disclose in any real estate transaction the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity;
or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee is not required to disclose, except as otherwise provided in paragraph (e), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(e) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report, if a copy of the report is provided to the licensee, described in paragraph (d).

(f) For property that was ever subject to an order under section 152.0275, subdivision 2, paragraph (c), unless the order has been vacated under section 152.0275, subdivision 2, paragraph (e), a licensee shall disclose to the parties to a real estate transaction the fact that the property was contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine. It is the duty of the licensee to ascertain whether the property was subject to such an order.

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

Sec. 2. [152.015] [GBL AND BDO.]

Gamma-butyrolactone (GBL) and 1,4-Butanediol (BDO) are not controlled substances and are exempted from regulation under this chapter when:

- (1) intended for industrial use and not for human consumption; or
- (2) occurring in a natural concentration and not the result of deliberate addition.

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

Sec. 3. [152.016] [SURCHARGE ON VIOLATIONS OF THIS CHAPTER.]

Subdivision 1. [WHEN REQUIRED.] (a) When a court sentences a person convicted of an offense under this chapter, it shall impose a surcharge of \$50. This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The surcharge required under this section is in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. [DISTRIBUTION OF MONEY.] The county shall collect and forward the surcharge to the commissioner of finance within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the methamphetamine awareness and educational account under section 152.185.

[EFFECTIVE DATE.] This section is effective July 1, 2004, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2003 Supplement, section 152.021, subdivision 2a, is amended to read:

Subd. 2a. ~~[METHAMPHETAMINE MANUFACTURE CRIMES CRIME; POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE CRIME.]~~ (a) Notwithstanding subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024, subdivision 1, a person is guilty of controlled substance crime in the first degree if the person manufactures any amount of methamphetamine.

~~(b) Notwithstanding paragraph (a) and section 609.17,~~ A person is guilty of attempted manufacture of methamphetamine a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine. As used in this section, "chemical reagents or precursors" ~~refers to one or more~~ include, but are not limited to, any of the following substances, or their salts, isomers, and salts of isomers:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia, ~~as defined in section 18C.005, subdivision 1a;~~
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;
- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2003 Supplement, section 152.021, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] (a) A person convicted under subdivisions 1 to 2a, paragraph (a), may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than \$1,000,000, or both; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~three~~ ten years or to payment of a fine of not more than \$5,000 ~~\$20,000~~, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the commissioner of corrections for not less than four years nor more than 40 years and, in addition, may be sentenced to payment of a fine of not more than \$1,000,000; a person convicted under subdivision 2a, paragraph (b), may be sentenced to imprisonment for not more than ~~four~~ 15 years or to payment of a fine of not more than \$5,000 ~~\$30,000~~, or both.

(c) In a prosecution under subdivision 1 involving sales by the same person in two or more counties within a 90-day period, the person may be prosecuted for all of the sales in any county in which one of the sales occurred.

(d) Except as provided in paragraph (e), a person convicted of violating subdivision 2a, paragraph (b), shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than ten years.

(e) A person convicted of violating subdivision 2a, paragraph (b), where the conviction is a subsequent controlled substance conviction, shall be committed to the custody of the commissioner of corrections for not less than three years, nor more than 15 years.

(f) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by paragraph (d) or (e). The motion shall be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the sentencing guidelines.

(g) A person convicted and sentenced as required by paragraph (d) or (e) is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 6. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE.]

Subdivision 1. [RESTITUTION.] (a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals, typically associated with the manufacturing of methamphetamine;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals,

chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court shall require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered must cover the reasonable costs of their participation in the response.

(c) In addition to the restitution required in paragraph (b), a court shall require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

(d) Notwithstanding paragraphs (b) and (c), if the court finds that the convicted person is indigent or that payment of the restitution would create undue hardship for the convicted person's immediate family, the court may reduce the amount of restitution to an appropriate level.

Subd. 2. [PROPERTY-RELATED PROHIBITIONS; WEB SITE.] (a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" includes buildings and other structures, and motor vehicles as defined in section 609.487, subdivision 2a. Property also includes real property whether publicly or privately owned and public waters and rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A county or local health department or sheriff shall order that all property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied, rented, sold, or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines.

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the applicable authority that issued the order under paragraph (c) that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices and that levels of contamination have been reduced to levels set forth in the guidelines. Following this, the applicable authority shall vacate its order.

(f) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

(g) The commissioner of health shall create and maintain an Internet Web site and post on the Web site contact information for each local community health services administrator.

(h) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 152.135, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) A drug product containing ephedrine, its salts, optical isomers, and salts of optical isomers is exempt from subdivision 1 if the drug product:

(1) may be lawfully sold over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, et seq.;

(2) is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(3) is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(4) is not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy; and

(5) is in solid oral dosage forms, including soft gelatin caplets, that combine 400 milligrams of guaifenesin and 25 milligrams of ephedrine per dose, according to label instructions; or is an anorectal preparation containing not more than five percent ephedrine; and

(6) is sold in a manner that does not conflict with section 152.136.

(b) Subdivisions 1 and 3 shall not apply to products containing ephedra or ma huang and lawfully marketed as dietary supplements under federal law.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 8. [152.136] [SALES OF METHAMPHETAMINE PRECURSOR DRUGS; CRIMINAL PENALTIES; REPORTING.]

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Methamphetamine precursor drug" includes single-source methamphetamine precursor drugs and non-single-source methamphetamine precursor drugs.

(c) "Non-single-source methamphetamine precursor drug" means a combination drug or product containing as one of its active ingredients ephedrine or pseudoephedrine. However, the term does not include a single-source methamphetamine precursor drug.

(d) "Over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(e) "Single-source methamphetamine precursor drug" means a drug or product containing as its sole active ingredient ephedrine or pseudoephedrine.

(f) "Suspicious transaction" means the sale, distribution, delivery, or other transfer of a

substance under circumstances that would lead a reasonable person to believe that the substance is likely to be used to illegally manufacture a controlled substance based on factors such as the amount of the substance involved in the transaction, the method of payment, the method of delivery, and any past dealings with any participant in the transaction.

Subd. 2. [PROHIBITED CONDUCT.] (a) No person may sell in a single over-the-counter sale more than three packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of nine grams.

(b) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(c) A business establishment that offers for sale single-source methamphetamine precursor drugs in an over-the-counter sale shall:

(1) ensure that all packages of the drugs are displayed and offered for sale only:

(i) behind a checkout counter where the public is not permitted;

(ii) inside a locked display case; or

(iii) within ten feet of an unobstructed view of an attended checkout counter; or

(2) utilize an electronic antitheft system having a product tag and detection alarm designed to specifically prevent the theft of the drugs from the business establishment.

Subd. 3. [CRIMINAL PENALTY.] A person who knowingly violates subdivision 2 is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than \$1,000, or both.

Subd. 4. [EXCEPTION TO CRIMINAL PENALTY.] (a) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating this section is not subject to the criminal penalties for violating this section if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal regulations regarding methamphetamine precursor drugs.

(b) Subdivisions 2 and 3 do not apply to a methamphetamine precursor drug that is manufactured in a manner that prevents the drug from being used to manufacture methamphetamine.

Subd. 5. [SUSPICIOUS TRANSACTIONS; REPORTING; IMMUNITY.] Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

Subd. 6. [EXEMPTION.] This section does not apply to pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions.

Subd. 7. [EFFECT ON LOCAL ORDINANCES.] This section preempts all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine or pseudoephedrine. Any existing local ordinance or regulation is void.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 9. [152.137] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY.]

Subdivision 1. [DEFINITIONS.] As used in this section, "tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

- (1) steal or unlawfully take or carry away any amount of anhydrous ammonia;
- (2) purchase, possess, transfer or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance;
- (3) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;
- (4) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;
- (5) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or
- (6) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 2 shall have no cause of action for damages arising out of the tampering against:

- (1) the owner or lawful custodian of the container or equipment;
- (2) a person responsible for the installation or maintenance of the container or equipment; or
- (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

Subd. 4. [CRIMINAL PENALTY.] A person who knowingly violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$50,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 10. [152.138] [METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS.]

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.

(c) "Child" means any person under the age of 18 years.

(d) "Methamphetamine paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.

(e) "Methamphetamine waste products" means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.

(f) "Vulnerable adult" has the meaning given in section 609.232, subdivision 11.

Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

(1) manufacturing or attempting to manufacture methamphetamine;

(2) storing any chemical substance;

(3) storing any methamphetamine waste products; or

(4) storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. [CRIMINAL PENALTY.] A person who violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections 609.035 and 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 5. [CONSECUTIVE SENTENCES.] Notwithstanding any provision of the sentencing guidelines, the court may provide that a sentence imposed for a violation of this section shall run consecutively to any sentence imposed for the intended criminal act. A decision of the court to impose consecutive sentences under this subdivision is not a departure from the sentencing guidelines.

Subd. 6. [PROTECTIVE CUSTODY.] A peace officer may take any child present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place into protective custody in accordance with section 260C.175, subdivision 1, paragraph (b), clause (2). A child taken into protective custody under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine as provided in section 260C.188. A child not taken into protective custody under this subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine as provided in section 260C.188.

Subd. 7. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a) A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the vulnerable adult

is present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia. The peace officer shall immediately report to the county common entry point as described in section 626.557, subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law enforcement is the primary agency to conduct investigations of any incident when there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in section 626.557, subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately.

(c) The county social services agency shall immediately respond as required in section 626.557, subdivision 10, upon receipt of a report from the common entry point staff.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 11. [152.185] [METHAMPHETAMINE AWARENESS AND EDUCATIONAL ACCOUNT; MINNESOTA METH WATCH.]

Subdivision 1. [ACCOUNT ESTABLISHED; EDUCATIONAL PROGRAM.] The methamphetamine awareness and educational account is a special revenue account in the state treasury. Money in the account is appropriated to the commissioner of public safety to be used to support projects relating to educating retailers and the public on the dangers of methamphetamines and methamphetamine precursor drugs and the laws and regulations governing their use, including an educational initiative entitled "Minnesota meth watch" addressing methamphetamine, its use and manufacture, and the impact of methamphetamine-related activities on children, the environment, and the state's quality of life.

Subd. 2. [CONTRIBUTIONS.] The state may accept contributions, gifts, grants, and bequests for deposit into the fund.

Subd. 3. [LIMIT.] The commissioner of finance may not credit more than \$40,000 per year to this account from the surcharge established in section 152.016. Any money collected from that surcharge in excess of \$40,000 must be credited to the general fund.

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

Sec. 12. Minnesota Statutes 2002, section 168A.05, subdivision 3, is amended to read:

Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of title issued by the department shall contain:

- (1) the date issued;
- (2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;
- (3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;
- (4) any liens filed pursuant to a court order or by a public agency responsible for child support enforcement against the owner;
- (5) the title number assigned to the vehicle;
- (6) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;

(7) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;

(8) with respect to vehicles subject to sections 325F.6641 and 325F.6642, the appropriate term "flood damaged," "rebuilt," "prior salvage," or "reconstructed"; and

(9) with respect to a vehicle contaminated by methamphetamine production, if the registrar has received the certificate of title and notice described in section 152.0275, subdivision 2, paragraph (f), the term "hazardous waste contaminated vehicle;" and

(10) any other data the department prescribes.

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

Sec. 13. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP REVOLVING FUND.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "clandestine lab site" has the meaning given in section 152.0275, subdivision 1, paragraph (a);

(2) "property" has the meaning given in section 152.0275, subdivision 2, paragraph (a), but does not include motor vehicles; and

(3) "remediate" has the meaning given to remediation in section 152.0275, subdivision 1, paragraph (a).

Subd. 2. [FUND ESTABLISHED.] The authority shall establish a methamphetamine laboratory cleanup revolving fund to provide loans to counties and cities to remediate clandestine lab sites. The fund must be credited with repayments.

Subd. 3. [APPLICATIONS.] Applications by a county or city for a loan from the fund must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

(1) the amount of the loan requested and the proposed use of the loan proceeds;

(2) the source of revenues to repay the loan; and

(3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible for a loan under this section if the county or city:

(1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;

(2) has required the site's property owner to remediate the site at cost, under chapter 145A or a local public health nuisance ordinance that addresses clandestine lab remediation;

(3) certifies that the property owner cannot pay for the remediation immediately;

(4) certifies that the property owner has not properly remediated the site; and

(5) issues a revenue bond payable to the authority to secure the loan.

Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY OWNER.] (a) A loan recipient shall use the loan to remediate the clandestine lab site or if this has already been done to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section 145A.08, subdivision 2, paragraph (c).

Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making loans from the revolving fund, the authority shall comply with the criteria in paragraphs (b) to (e).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the clean up. Loans must be amortized no later than 20 years after completion of the clean up.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority.

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

Sec. 14. Minnesota Statutes 2002, section 609.1095, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: ~~section~~ sections 152.138; 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 15. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; DRUG TREATMENT.]

(a) The Legislative Audit Commission is requested to direct the legislative auditor to study and issue a report on the efficacy of controlled substance treatment programs for criminal offenders in Minnesota. The report must include programs offered in state and local correctional facilities and community-based programs. The auditor shall study the programs offered for each type of controlled substance addiction. The report must compare the costs of the programs and their success rates. To the degree feasible, the auditor shall investigate treatment programs offered in other states for controlled substance offenders and compare the breadth and comprehensiveness of the treatment options available in Minnesota, their costs, and their success rates to those in other states.

(b) If the Legislative Audit Commission directs the legislative auditor to conduct the study described in paragraph (a), the auditor shall report its findings to the legislature by February 1, 2005.

Sec. 16. [REPEALER.]

Minnesota Statutes 2002, sections 18C.005, subdivisions 1a and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision 5, are repealed.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Correct the subdivision and section totals and the summaries by fund accordingly

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 31 and nays 33, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

Senator Pappas moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 332, after line 7, insert:

"Sec. 21. [609.6855] [RESTRICTED VIDEO GAMES; PROHIBITIONS.]

Subdivision 1. [DEFINITION.] As used in this section, "restricted video game" means a video game rated AO or M by the entertainment software rating board.

Subd. 2. [PROHIBITED ACTS; PENALTY.] A person under the age of 17 who knowingly rents or purchases a restricted video game is guilty of a petty misdemeanor and is subject to a fine of not more than \$25.

Subd. 3. [POSTED SIGN REQUIRED.] A person or entity engaged in the retail business of selling or renting video games from a location or structure with access to the public shall post a sign in a location that is clearly visible to consumers. The sign must display the following language: "It is against the law for a person under 17 to rent or purchase a video game rated AO or M. Violators may be subject to a \$25 penalty."

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Kleis questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Kleis moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 280, line 19, delete "may" and insert "shall"

Page 280, line 20, delete "or a portion"

Page 280, line 21, after "waived" insert "or reduced"

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	Koering	Neuville	Reiter
Belanger	Hann	Larson	Nienow	Robling
Day	Johnson, D.J.	LeClair	Olson	Rosen
Dille	Jungbauer	Limmer	Ortman	Ruud
Fischbach	Kiscaden	McGinn	Ourada	Senjem
Frederickson	Kleis	Michel	Pariseau	Wergin

Those who voted in the negative were:

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

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

Senator LeClair moved to amend H.F. No. 2028, the unofficial engrossment, as follows:

Page 324, after line 27, insert:

"Sec. 13. Minnesota Statutes 2002, section 609.50, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] Whoever intentionally does any of the following may be sentenced as provided in subdivision 2:

(1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;

(2) obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties;

(3) interferes with or obstructs the prevention or extinguishing of a fire, or disobeys the lawful order of a firefighter present at the fire; or

(4) interferes with or obstructs a member of an ambulance service personnel crew, as defined in section 144E.001, subdivision 3a, who is providing, or attempting to provide, emergency care; or

(5) by force or threat of force endeavors to obstruct any employee of the Department of Revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Pappas questioned whether the amendment was germane.

The President ruled that the amendment was germane.

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

The roll was called, and there were yeas 63 and nays 2, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Foley Pappas

The motion prevailed. So the amendment was adopted.

H.F. No. 2028 was read the third time, as amended, and placed on its final passage.

Pursuant to Rule 7.3, Senator LeClair raised a point of order that H.F. No. 2028 was not in order.

The President ruled the point of order not well taken, so H.F. No. 2028 was in order.

Senator LeClair appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 35 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Berglin	Chaudhary	Dibble	Foley
Bakk	Betzold	Cohen	Dille	Higgins

Hottinger	Lourey	Murphy	Saxhaug	Sparks
Johnson, D.E.	Marko	Pappas	Scheid	Stumpf
Kelley	Marty	Pogemiller	Skoe	Tomassoni
Kubly	Metzen	Rest	Skoglund	Vickerman
Langseth	Moua	Sams	Solon	Wiger

Those who voted in the negative were:

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

So the decision of the President was sustained.

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

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

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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 Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 58: A bill for an act relating to crimes; reducing from 0.10 to 0.08 the per se alcohol concentration level for impairment offenses involving driving a motor vehicle, criminal vehicular homicide and injury, operating recreational vehicles or watercraft, hunting, or operating military vehicles while impaired; requiring a report; appropriating money; amending Minnesota Statutes 2002, sections 97B.065, subdivision 1; 97B.066, subdivision 1; 169A.20, subdivision 1; 169A.51, subdivision 1; 169A.52, subdivisions 2, 4, 7; 169A.54, subdivision 7; 169A.76; 192A.555; 609.21; Minnesota Statutes 2003 Supplement, section 169A.53, subdivision 3.

There has been appointed as such committee on the part of the House:

Strachan, Howes and Lesch.

Senate File No. 58 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 7, 2004

MEMBERS EXCUSED

Senator Knutson was excused from the Session of today at 3:00 p.m. Senator Ourada was excused from the Session of today from 3:00 p.m. to 1:00 a.m. Senator Koering was excused from the Session of today from 7:00 to 7:10 p.m. Senator Ortman was excused from the Session of today from 7:15 to 8:15 p.m. Senator Sams was excused from the Session of today from 9:00 to 9:45 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 8:30 a.m., Thursday, April 8, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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