

ONE HUNDRED EIGHTH DAY

St. Paul, Minnesota, Wednesday, May 17, 2006

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Lawrence J. Green.

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce 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. 762: A bill for an act relating to the environment; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; amending Laws 2005, chapter 20, article 1, section 39; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

There has been appointed as such committee on the part of the House:

Ozment, Penas and Juhnke.

Senate File No. 762 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 16, 2006

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2892:

H.F. No. 2892: A bill for an act relating to higher education; authorizing the Minnesota State Colleges and Universities Board of Trustees to construct an academic building in Mankato.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Dorn, Nornes and Pelowski have been appointed as such committee on the part of the House.

House File No. 2892 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 16, 2006

Senator Hottinger moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2892, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3302:

H.F. No. 3302: A bill for an act relating to local government; modifying municipal and county planning and zoning provisions; providing standards for preliminary plat approval in a proposed development; amending Minnesota Statutes 2004, sections 394.25, subdivision 7; 462.358, subdivision 3b.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Brod, Hornstein and Charron have been appointed as such committee on the part of the House.

House File No. 3302 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 16, 2006

Senator Senjem moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3302, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee

appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3779:

H.F. No. 3779: A bill for an act relating to adults-only businesses; requiring notice by certified mail to the appropriate statutory or home-rule charter city under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 617.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Urdahl, Emmer and Rukavina have been appointed as such committee on the part of the House.

House File No. 3779 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 16, 2006

Senator Dille moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3779, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3185:

H.F. No. 3185: A bill for an act relating to high pressure piping; classifying data relating to bioprocess piping and equipment as nonpublic; including bioprocess piping in the definition of high pressure piping; amending Minnesota Statutes 2004, sections 16B.61, subdivisions 2, 3; 326.461, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 13.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Mahoney, Simpson and Wilkin have been appointed as such committee on the part of the House.

House File No. 3185 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 16, 2006

Senator Johnson, D.E., for Senator Scheid, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3185, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith

transmitted: H.F. No. 3761.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 16, 2006

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 3761: A bill for an act relating to transportation; authorizing sale of trunk highway bonds for capital improvements related to transportation; establishing transit fund and accounts; providing for treatment and allocation of tax proceeds related to motor vehicles; modifying proposed amendment to Minnesota Constitution and its proposed ballot question; setting certain court deadlines and procedures; modifying provisions relating to the town bridge account, town road construction and maintenance, old automobile liens, public highway contracts, allowable vehicle weights on highways, tow truck operators, impounded vehicles, highway signs, motorized golf carts, area transportation partnerships, the rail service improvement account, the tax attributable to fuel used by all-terrain vehicles, and a connector highway agreement; repealing authority for future toll facilities; requiring studies and reports; appropriating money; amending Minnesota Statutes 2004, sections 16A.88; 161.082, subdivision 2a; 161.315, by adding a subdivision; 168B.06, subdivision 1; 168B.07, by adding a subdivision; 169.06, subdivision 2; 169.823, subdivision 1; 169.824, subdivision 1; 169.829, subdivision 2; 169.86, by adding a subdivision; 169.87, subdivision 2; 222.50, subdivisions 6, 7; 296A.18, subdivision 4; 297A.94; 297B.09, subdivision 1; 471.345, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 168A.20, subdivision 5; 169.01, subdivision 78; 169.81, subdivision 3c; 169.824, subdivision 2; 297A.815, by adding a subdivision; 469.322; 469.323, subdivision 2; Laws 2005, chapter 88, article 3, sections 9; 10; proposing coding for new law in Minnesota Statutes, chapters 160; 167; 174; repealing Minnesota Statutes 2004, sections 160.84; 160.85; 160.86; 160.87; 160.88; 160.89; 160.90; 160.91; 160.92.

Senator Johnson, D.E. moved that H.F. No. 3761 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 Cohen from the Committee on Finance, to which was re-referred

S.F. No. 3049: A bill for an act relating to commerce; providing an expedited process for the judicial review of financing statements; establishing civil and criminal liability for fraudulent or otherwise improper financing statements; proposing coding for new law in Minnesota Statutes, chapters 545; 604; 609.

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

Page 10, after line 34, insert:

"Sec. 4. **EFFECTIVE DATE.**

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

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

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

S.F. No. 2651: A bill for an act relating to taxation; changing the deposit of revenues from the sales tax on motor vehicle leases; amending Minnesota Statutes 2004, section 297A.94; Minnesota Statutes 2005 Supplement, section 297A.815, by adding subdivisions.

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

Page 4, line 8, delete "2006" and insert "2007, if the constitutional amendment proposed to the people by Laws 2005, chapter 88, article 3, section 9, is approved"

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

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

H.F. No. 2916: A bill for an act relating to public safety; establishing the fire safety account from revenues on fire premiums and assessments; abolishing the fire insurance tax; amending Minnesota Statutes 2004, section 297I.30, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 297I; 299F; repealing Minnesota Statutes 2004, section 297I.05, subdivision 6.

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

Page 2, delete lines 15 to 16 and insert "Beginning in fiscal year 2008 and each year thereafter, \$2,832,000 is appropriated from the fire safety account in the special revenue fund to the commissioner of public safety for the fire marshal program."

Amend the title accordingly

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

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

S.F. No. 3770: A bill for an act relating to education; providing for kindergarten through grade 12 education including general education, education excellence, special education, facilities, accounting and technology, nutrition and libraries, and state agencies; providing early childhood and family and kindergarten through grade 12 education forecast adjustments; making technical and conforming amendments; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2004, sections 120A.20, subdivision 1; 120A.22, subdivision 3; 120B.021, subdivision 1; 120B.023; 120B.024; 121A.035; 121A.15, subdivision 10; 122A.09, subdivision 4; 122A.18, subdivision 2; 122A.31, subdivision 1, by adding a subdivision; 123A.06, subdivision 2; 123A.44; 123A.441; 123A.442; 123A.443; 123B.10, subdivision 1; 123B.53, subdivision 5; 123B.57, subdivision 6; 123B.77, subdivision 3, by adding a subdivision; 123B.90, subdivision 2; 123B.91, by adding a subdivision; 124D.02, subdivisions 2, 4; 124D.095, subdivision 3; 124D.096; 124D.10, subdivision 16; 124D.11, subdivision 9; 124D.61; 124D.68, subdivision 3; 125A.02, subdivision 1; 125A.515, subdivisions 1, 3, 5, 6, 7, 9, 10; 125A.62, subdivision 1; 125A.63, subdivision 4; 125A.65, subdivisions 3, 4, 6, 8, 10; 125A.69, subdivision 3; 125A.75, subdivision 1, by adding a subdivision; 126C.05, subdivision 1; 126C.10, subdivision 6, by adding subdivisions; 126C.44; 127A.41, subdivision 2; 169.01, subdivision 6; 169.447, subdivision 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 5; 169.4503, subdivision 20; 171.321, subdivisions 4, 5; 181.101; 299F.30; 626.556, subdivisions 3b, 3c; Minnesota Statutes 2005 Supplement, sections 120B.021, subdivision 1a; 120B.11, subdivision 2; 120B.131, subdivision 2; 122A.414, subdivisions 2b, 3; 122A.415, subdivisions 1, 3; 123B.04, subdivision 2; 123B.54; 123B.76, subdivision 3; 123B.92, subdivisions 1, 5; 124D.095, subdivision 4; 124D.111, subdivision 1; 124D.68, subdivision 2; 125A.11, subdivision 1; 125A.79, subdivision 1; 126C.10, subdivisions 13a, 24, 31, 34; 126C.43, subdivision 2; 127A.45, subdivision 10; 626.556, subdivisions 2, 3; Laws 2005, First Special Session chapter 5, article 1, sections 47; 54, subdivisions 2, 3, 5, 6, 7, 8; article 2, section 84, subdivisions 2, 3, 4, 6, 7, 10, 13; article 3, section 18, subdivisions 2, 3, 4, 5, 6, 7; article 4, section

25, subdivisions 2, 3, 4, 6; article 5, section 17, subdivisions 2, 3; article 6, section 1, subdivisions 2, 3, 5; article 7, section 20, subdivisions 2, 3, 4; article 8, section 8, subdivisions 2, 3, 5; article 9, section 4, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 121A; 122A; repealing Minnesota Statutes 2004, sections 120A.20, subdivision 3; 121A.23; 123B.749; 125A.10; 125A.515, subdivision 2; 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26.

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 2004, section 120A.20, subdivision 1, is amended to read:

Subdivision 1. **Age limitations; pupils.** (a) All schools supported in whole or in part by state funds are public schools. Admission to a public school is free to any person who: (1) resides within the district that operates the school, who; (2) is under 21 years of age, or who meets the requirements of paragraph (c); and who (3) satisfies the minimum age requirements imposed by this section. Notwithstanding the provisions of any law to the contrary, the conduct of all students under 21 years of age attending a public secondary school is governed by a single set of reasonable rules and regulations promulgated by the school board.

~~No~~ (b) A person shall ~~not~~ be admitted to ~~any~~ a public school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a 1st grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that any school board may establish a policy for admission of selected pupils at an earlier age.

(c) A pupil who becomes age 21 after enrollment is eligible for continued free public school enrollment until at least one of the following occurs: (1) the first September 1 after the pupil's 21st birthday; (2) the pupil's completion of the graduation requirements; (3) the pupil's withdrawal with no subsequent enrollment within 21 calendar days; or (4) the end of the school year.

Sec. 2. Minnesota Statutes 2004, section 123A.06, subdivision 2, is amended to read:

Subd. 2. **People to be served.** A center shall provide programs for secondary pupils and adults. A center may also provide programs and services for elementary and secondary pupils who are not attending the center to assist them in being successful in school. A center shall use research-based best practices for serving limited English proficient students and their parents. An individual education plan team may identify a center as an appropriate placement to the extent a center can provide the student with the appropriate special education services described in the student's plan. Pupils eligible to be served are those ~~age five to adults 22 and older~~ who qualify under the graduation incentives program in section 124D.68, subdivision 2, those enrolled under section 124D.02, subdivision 2, or those pupils who are eligible to receive special education services under sections 125A.03 to 125A.24, and 125A.65.

Sec. 3. Minnesota Statutes 2005 Supplement, section 123B.76, subdivision 3, is amended to read:

Subd. 3. **Expenditures by building.** (a) For the purposes of this section, "building" means education site as defined in section 123B.04, subdivision 1.

(b) Each district shall maintain separate accounts to identify general fund expenditures for each building. All expenditures for regular instruction, secondary vocational instruction, and school administration must be reported to the department separately for each building. All expenditures for special education instruction, instructional support services, and pupil support services provided

within a specific building must be reported to the department separately for each building. Salary expenditures reported by building must reflect actual salaries for staff at the building and must not be based on districtwide averages. All other general fund expenditures may be reported by building or on a districtwide basis.

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

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

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

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

(4) alternative teacher compensation revenue shall be allocated according to section 122A.415, subdivision 1;

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

~~(5)~~ (6) first grade preparedness aid shall be allocated according to section 124D.081;

~~(6)~~ (7) state and federal special education aid and Title I aid shall be allocated in proportion to district expenditures for these programs by building; and

~~(7)~~ (8) other general fund revenues shall be allocated on a uniform per pupil basis, except that the department may allocate other revenues attributable to specific buildings directly to those buildings.

Sec. 4. Minnesota Statutes 2004, section 124D.02, subdivision 2, is amended to read:

Subd. 2. **Secondary school programs.** The board may permit a person who is over the age of 21 or who has graduated from high school to enroll as a ~~part-time student~~ in a class or program at a secondary school if there is space available. In determining if there is space available, ~~full-time public school students, eligible for free enrollment under section 120A.20, subdivision 1, and shared-time students shall be given priority over students seeking enrollment pursuant to this subdivision,~~ and students returning to complete a regular course of study shall be given priority over ~~part-time~~ other students seeking enrollment pursuant to this subdivision. The following are not prerequisites for enrollment:

(1) residency in the school district;

(2) United States citizenship; or

(3) for a person over the age of 21, a high school diploma or equivalency certificate. A person may enroll in a class or program even if that person attends evening school, an adult or continuing education, or a postsecondary educational program or institution.

Sec. 5. Minnesota Statutes 2004, section 124D.02, subdivision 4, is amended to read:

Subd. 4. **Part-time student fee.** Notwithstanding the provisions of sections 120A.20 and 123B.37, a board may charge a ~~part-time student~~ enrolled pursuant to subdivision 2 a reasonable fee for a class or program.

Sec. 6. Minnesota Statutes 2005 Supplement, section 124D.68, subdivision 2, is amended to read:

Subd. 2. **Eligible pupils.** ~~The following pupils are~~ A pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), is eligible to participate in the

graduation incentives program:-

~~(a) any pupil under the age of 21 who, if the pupil:~~

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is at least one year behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

(4) has been assessed as chemically dependent;

(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;

(7) is a victim of physical or sexual abuse;

(8) has experienced mental health problems;

(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or has limited English proficiency; or

(11) has withdrawn from school or has been chronically truant; ~~or,~~

~~(b) any person who is at least 21 years of age and who:~~

~~(1) has received fewer than 14 years of public or nonpublic education, beginning at age 5;~~

~~(2) has not completed the requirements for a high school diploma; and~~

~~(3) at the time of application, (i) is eligible for unemployment benefits or has exhausted the benefits, (ii) is eligible for, or is receiving income maintenance and support services, as defined in section 116L.19, subdivision 5, or (iii) is eligible for services under the displaced homemaker program or any programs under the federal Jobs Training Partnership Act or its successor.~~

Sec. 7. Minnesota Statutes 2004, section 124D.68, subdivision 3, is amended to read:

Subd. 3. **Eligible programs.** (a) A pupil who is eligible according to subdivision 2 may enroll in area learning centers under sections 123A.05 to 123A.08.

(b) A pupil who is eligible according to subdivision 2 and who is between the ages of 16 and 21 may enroll in postsecondary courses under section 124D.09.

(c) A pupil who is eligible under subdivision 2, may enroll in any public elementary or secondary education program. ~~However, a person who is eligible according to subdivision 2, clause (b), may enroll only if the school board has adopted a resolution approving the enrollment.~~

(d) A pupil who is eligible under subdivision 2, may enroll in any nonpublic, nonsectarian school that has contracted with the serving school district to provide educational services.

(e) A pupil who is between the ages of 16 and 21 may enroll in any adult basic education programs approved under section 124D.52 and operated under the community education program contained in section 124D.19.

Sec. 8. Minnesota Statutes 2004, section 126C.05, subdivision 1, is amended to read:

Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), in average daily membership enrolled in the district of residence, in another district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.07, 124D.08, or 124D.68; in a charter school under section 124D.10; or for whom the resident district pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision.

(a) A prekindergarten pupil with a disability who is enrolled in a program approved by the commissioner and has an individual education plan is counted as the ratio of the number of hours of assessment and education service to 825 times 1.25 with a minimum average daily membership of 0.28, but not more than 1.25 pupil units.

(b) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 825 times 1.25.

(c) A kindergarten pupil with a disability who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(d) A kindergarten pupil who is not included in paragraph (c) is counted as .557 of a pupil unit for fiscal year 2000 and thereafter.

(e) A pupil who is in any of grades 1 to 3 is counted as 1.115 pupil units for fiscal year 2000 and thereafter.

(f) A pupil who is any of grades 4 to 6 is counted as 1.06 pupil units for fiscal year 1995 and thereafter.

(g) A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.

(h) A pupil who is in the postsecondary enrollment options program is counted as 1.3 pupil units.

Sec. 9. Minnesota Statutes 2004, section 126C.10, subdivision 6, is amended to read:

Subd. 6. **Definitions.** The definitions in this subdivision apply only to subdivisions 7 and 8.

(a) "High school" means a public secondary school, except a charter school under section 124D.10, that has pupils enrolled in at least the 10th, 11th, and 12th grades. ~~If there is no secondary high school in the district that has pupils enrolled in at least the 10th, 11th, and 12th grades,~~ and the school is at least 19 miles from the next nearest school, the commissioner must designate one school in the district as a high school for the purposes of this section.

(b) "Secondary average daily membership" means, for a district that has only one high school, the average daily membership of pupils served in grades 7 through 12. For a district that has more than one high school, "secondary average daily membership" for each high school means the product of the average daily membership of pupils served in grades 7 through 12 in the high school, times the ratio of six to the number of grades in the high school.

(c) "Attendance area" means the total surface area of the district, in square miles, divided by the number of high schools in the district. For a district that does not operate a high school and is less than 19 miles from the nearest operating high school, the attendance area equals zero.

(d) "Isolation index" for a high school means the square root of 55 percent of the attendance area plus the distance in miles, according to the usually traveled routes, between the high school and the nearest high school. For a district in which there is located land defined in section 84A.01, 84A.20, or 84A.31, the distance in miles is the sum of:

- (1) the square root of one-half of the attendance area; and
- (2) the distance from the border of the district to the nearest high school.

(e) "Qualifying high school" means a high school that has an isolation index greater than 23 and that has secondary average daily membership of less than 400.

(f) "Qualifying elementary school" means ~~an a~~ a public elementary school, except a charter school under section 124D.10, that is located 19 miles or more from the nearest elementary school or from the nearest elementary school within the district and, in either case, has an elementary average daily membership of an average of 20 or fewer per grade.

(g) "Elementary average daily membership" means, for a district that has only one elementary school, the average daily membership of pupils served in kindergarten through grade 6. For a district that has more than one elementary school, "average daily membership" for each school means the average daily membership of pupils served in kindergarten through grade 6 multiplied by the ratio of seven to the number of grades in the elementary school.

Sec. 10. Minnesota Statutes 2005 Supplement, section 126C.43, subdivision 2, is amended to read:

Subd. 2. Payment to unemployment insurance program trust fund by state and political subdivisions. (a) A district may levy the amount necessary ~~(i)~~ (1) to pay the district's obligations under section 268.052, subdivision 1, and ~~(ii)~~ (2) to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.085 for the fiscal year the levy is certified.

(b) Districts with a balance remaining in their reserve for reemployment as of June 30, 2003, may not expend the reserved funds for future reemployment expenditures. Each year a levy reduction must be made to return these funds to taxpayers. The amount of the levy reduction must be equal to the lesser of: (1) the remaining reserved balance for reemployment, or (2) the amount of the district's current levy under paragraph (a).

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

Sec. 11. Minnesota Statutes 2004, section 126C.44, is amended to read:

126C.44 SAFE SCHOOLS LEVY.

Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to \$27 multiplied by the district's adjusted marginal cost pupil units for the school year. The proceeds of the levy must be reserved and used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes: (1) to pay the costs incurred for the salaries, benefits, and transportation costs of peace officers and sheriffs for liaison in services in the district's schools; (2) to pay the costs for a drug abuse prevention program as defined in section 609.101, subdivision 3, paragraph (e), in the elementary schools; (3) to pay the costs for a gang resistance education training curriculum in the district's schools; (4) to pay the costs for security in the district's schools and on school property; or (5) to pay the costs for other crime prevention, drug abuse, student and staff safety, and violence prevention measures taken by the school district. For expenditures under clause (1), the district must initially attempt to contract for services to be provided by peace officers or sheriffs with the police department of each city or the sheriff's department of the county within the district containing the school receiving the services. If a local police department or a county sheriff's department does not wish to provide the necessary services, the district may contract for these services with any other police or sheriff's department located entirely or partially within the school district's boundaries. The levy authorized under this section is not included in determining the school district's levy limitations.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2006.

Sec. 12. Minnesota Statutes 2005 Supplement, section 127A.45, subdivision 10, is amended to read:

Subd. 10. **Payments to school nonoperating funds.** Each fiscal year state general fund payments for a district nonoperating fund must be made at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. This amount shall be paid in 12 equal monthly installments. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement must be paid prior to October 31 of the following school year. The commissioner may make advance payments of debt service equalization aid and state-paid tax credits for a district's debt service fund earlier than would occur under the preceding schedule if the district submits evidence showing a serious cash flow problem in the fund. The commissioner may make earlier payments during the year and, if necessary, increase the percent of the entitlement paid to reduce the cash flow problem.

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

Sec. 13. **REPEALER.**

Minnesota Statutes 2004, section 120A.20, subdivision 3, is repealed.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2004, section 120A.22, subdivision 3, is amended to read:

Subd. 3. **Parent defined; residency determined.** (a) In this section and sections 120A.24 and 120A.26, "parent" means a parent, guardian, or other person having legal custody of a child.

(b) In sections 125A.03 to 125A.24 and 125A.65, "parent" means a parent, guardian, or other person having legal custody of a child under age 18. For an unmarried pupil age 18 or over, "parent" means the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator.

(c) For purposes of sections 125A.03 to 125A.24 and 125A.65, the school district of residence for an unmarried pupil age 18 or over who is a parent under paragraph (b) and who is placed in a center for care and treatment, shall be the school district in which the pupil's biological or adoptive parent or designated guardian resides.

(d) For a married pupil age 18 or over, the school district of residence is the school district in which the married pupil resides.

(e) If a district reasonably believes that a student does not meet the residency requirements of the school district in which the student is attending school, the student may be removed from the school only after the district sends the student's parents written notice of the district's belief, including the facts upon which the belief is based, and an opportunity to provide documentary evidence of residency in person to the superintendent or designee, or, at the option of the parents, by sending the documentary evidence to the superintendent, or a designee, who will then make a determination as to the residency status of the student.

Sec. 2. Minnesota Statutes 2005 Supplement, section 120B.021, subdivision 1a, is amended to read:

Subd. 1a. **Rigorous course of study; waiver.** (a) Upon receiving a student's application signed by the student's parent or guardian, a school district, area learning center, or charter school must declare that a student meets or exceeds a specific academic standard required for graduation under this section if the local school board, the school board of the school district in which the area learning center is located, or the charter school board of directors determines that the student:

(1) is participating in a course of study, including an advanced placement or international

baccalaureate course or program; a learning opportunity outside the curriculum of the district, area learning center, or charter school; or an approved preparatory program for employment or postsecondary education that is equally or more rigorous than the corresponding state or local academic standard required by the district, area learning center, or charter school;

(2) would be precluded from participating in the rigorous course of study, learning opportunity, or preparatory employment or postsecondary education program if the student were required to achieve the academic standard to be waived; and

(3) satisfactorily completes the requirements for the rigorous course of study, learning opportunity, or preparatory employment or postsecondary education program.

Consistent with the requirements of this section, the local school board, the school board of the school district in which the area learning center is located, or the charter school board of directors also may formally determine other circumstances in which to declare that a student meets or exceeds a specific academic standard that the site requires for graduation under this section.

(b) A student who satisfactorily completes a postsecondary enrollment options course or program under section 124D.09, or an advanced placement or international baccalaureate course or program under section 120B.13, is not required to complete other requirements of the academic standards corresponding to that specific rigorous course of study.

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

Sec. 3. Minnesota Statutes 2004, section 120B.023, is amended to read:

120B.023 BENCHMARKS.

Subdivision 1. Benchmarks implement, supplement statewide academic standards. (a) The commissioner must supplement required state academic standards with grade-level benchmarks. High school benchmarks may cover more than one grade. The benchmarks must implement statewide academic standards by specifying the academic knowledge and skills that schools must offer and students must achieve to satisfactorily complete a state standard. The commissioner must publish benchmarks ~~are published~~ to inform and guide parents, teachers, school districts, and other interested persons and ~~for to~~ use in developing tests consistent with the benchmarks.

(b) The commissioner shall publish benchmarks in the State Register and transmit the benchmarks in any other manner that makes them accessible to the general public. The commissioner may charge a reasonable fee for publications.

(c) Once established, the commissioner may change the benchmarks only with specific legislative authorization and after completing a review under ~~paragraph (d) subdivision 2.~~

(d) The commissioner must develop and implement a system for reviewing ~~on a four-year cycle~~ each of the required academic standards and related benchmarks and elective standards ~~beginning in the 2006-2007 school year~~ on a periodic cycle, consistent with subdivision 2.

(e) The benchmarks are not subject to chapter 14 and section 14.386 does not apply.

Subd. 2. Revisions and reviews required. (a) The commissioner of education must revise and appropriately embed technology and information literacy standards consistent with recommendations from school media specialists into the state's academic standards and graduation requirements and implement a review cycle for state academic standards and related benchmarks, consistent with this subdivision. During each review cycle, the commissioner also must examine the alignment of each required academic standard and related benchmark with the knowledge and skills students need for college readiness and advanced work in the particular subject area.

(b) The commissioner in the 2006-2007 school year must revise and align the state's academic standards and high school graduation requirements in mathematics to require that students

satisfactorily complete the revised mathematics standards, beginning in the 2010-2011 school year. Under the revised standards:

(1) students must satisfactorily complete an algebra I credit by the end of eighth grade; and

(2) students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete an algebra II credit or its equivalent.

The commissioner also must ensure that the statewide mathematics assessments administered to students in grades 3 through 8 and 11 beginning in the 2010-2011 school year are aligned with the state academic standards in mathematics. The statewide 11th grade mathematics test administered to students under clause (2) beginning in the 2013-2014 school year must include algebra II test items that are aligned with corresponding state academic standards in mathematics. The commissioner must implement a review of the academic standards and related benchmarks in mathematics beginning in the 2015-2016 school year.

(c) The commissioner in the 2007-2008 school year must revise and align the state's academic standards and high school graduation requirements in the arts to require that students satisfactorily complete the revised arts standards beginning in the 2010-2011 school year. The commissioner must implement a review of the academic standards and related benchmarks in arts beginning in the 2016-2017 school year.

(d) The commissioner in the 2008-2009 school year must revise and align the state's academic standards and high school graduation requirements in science to require that students satisfactorily complete the revised science standards, beginning in the 2011-2012 school year. Under the revised standards, students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete a chemistry or physics credit. The commissioner must implement a review of the academic standards and related benchmarks in science beginning in the 2017-2018 school year.

(e) The commissioner in the 2009-2010 school year must revise and align the state's academic standards and high school graduation requirements in language arts to require that students satisfactorily complete the revised language arts standards beginning in the 2012-2013 school year. The commissioner must implement a review of the academic standards and related benchmarks in language arts beginning in the 2018-2019 school year.

(f) The commissioner in the 2010-2011 school year must revise and align the state's academic standards and high school graduation requirements in social studies to require that students satisfactorily complete the revised social studies standards beginning in the 2013-2014 school year. The commissioner must implement a review of the academic standards and related benchmarks in social studies beginning in the 2019-2020 school year.

(g) School districts and charter schools must revise and align local academic standards and high school graduation requirements in health, physical education, world languages, and career and technical education to require students to complete the revised standards beginning in a school year determined by the school district or charter school. School districts and charter schools must formally establish a periodic review cycle for the academic standards and related benchmarks in health, physical education, world languages, and career and technical education.

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

Sec. 4. Minnesota Statutes 2005 Supplement, section 120B.131, subdivision 2, is amended to read:

Subd. 2. **Reimbursement for examination fees.** The state may reimburse college-level examination program (CLEP) fees for a Minnesota public or nonpublic high school student who has successfully completed one or more college-level courses in high school ~~and earned a satisfactory score on one or more CLEP examinations~~ in the subject matter of each examination in the following subjects: composition and literature, mathematics and science, social sciences and

history, foreign languages, and business and humanities. The state may reimburse each successful student for up to six examination fees. The commissioner shall establish application procedures and a process and schedule for fee reimbursements. The commissioner must give priority to reimburse the CLEP examination fees of students of low-income families.

Sec. 5. Minnesota Statutes 2004, section 123B.77, subdivision 3, is amended to read:

Subd. 3. **Statement for comparison and correction.** (a) By November 30 of the calendar year of the submission of the unaudited financial data, the district must provide to the commissioner audited financial data for the preceding fiscal year. The audit must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, and the Minnesota legal compliance guide issued by the Office of the State Auditor. An audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited financial data shall be submitted to the commissioner and the state auditor by December 31. The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance and a copy of the management letter submitted to the district by the school district's auditor.

(b) By January 15 of the calendar year following the submission of the unaudited financial data, the commissioner shall convert the audited financial data required by this subdivision into the consolidated financial statement format required under subdivision 1a and publish the information on the department's Web site.

EFFECTIVE DATE. This section is effective for financial statements prepared in 2006 and later.

Sec. 6. Minnesota Statutes 2004, section 123B.91, is amended by adding a subdivision to read:

Subd. 1a. **Compliance by nonpublic and charter school students.** A nonpublic or charter school student transported by a public school district shall comply with student bus conduct and student bus discipline policies of the transporting public school district.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.01, subdivision 6, clause (5), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility or residence is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes; and

(vii) services described in clauses (i) to (vi), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education base revenue under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2005 Supplement, section 123B.92, subdivision 5, is amended to read:

Subd. 5. **District reports.** (a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according

to paragraph (c) for (1) an employee designated as the district transportation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of ~~other~~ the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, must be allocated among transportation categories based on cost-per-mile, cost-per-student, cost-per-hour, or cost-per-route, regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among transportation categories based on cost-per-mile, cost-per-student, cost-per-hour, or cost-per-route. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

EFFECTIVE DATE. This section is effective for fiscal year 2006.

Sec. 9. Minnesota Statutes 2005 Supplement, section 124D.095, subdivision 4, is amended to read:

Subd. 4. **Online learning parameters.** (a) An online learning student must receive academic credit for completing the requirements of an online learning course or program. Secondary credits granted to an online learning student must be counted toward the graduation and credit requirements of the enrolling district. The enrolling district must apply the same graduation requirements to all students, including online learning students, and must continue to provide nonacademic services to online learning students. If a student completes an online learning course or program that meets or exceeds a graduation standard or grade progression requirement at the enrolling district, that standard or requirement is met. The enrolling district must use the same criteria for accepting online learning credits or courses as it does for accepting credits or courses for transfer students under section 124D.03, subdivision 9. The enrolling district may reduce the teacher contact time of an online learning student in proportion to the number of online learning courses the student takes from an online learning provider that is not the enrolling district.

(b) An online learning student may:

(1) enroll during a single school year in a maximum of 12 semester-long courses or their equivalent delivered by an online learning provider or the enrolling district;

(2) complete course work at a grade level that is different from the student's current grade level; and

(3) enroll in additional courses with the online learning provider under a separate agreement that includes terms for payment of any tuition or course fees.

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

~~(d)~~ (c) An online learning student has the same access to the computer hardware and education software available in a school as all other students in the enrolling district. An online learning provider must assist an online learning student whose family qualifies for the education tax credit

under section 290.0674 to acquire computer hardware and educational software for online learning purposes.

~~(e)~~ (d) An enrolling district may offer online learning to its enrolled students. Such online learning does not generate online learning funds under this section. An enrolling district that offers online learning only to its enrolled students is not subject to the reporting requirements or review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to enrolled students receiving online learning from an enrolling district. The delivery of instruction occurs when the student interacts with the computer or the teacher and receives ongoing assistance and assessment of learning. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.

~~(f)~~ (e) An online learning provider that is not the enrolling district is subject to the reporting requirements and review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to online learning students. The delivery of instruction occurs when the student interacts with the computer or the teacher and receives ongoing assistance and assessment of learning. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license. Unless the commissioner grants a waiver, a teacher providing online learning instruction must not instruct more than 40 students in any one online learning course or program.

Sec. 10. Minnesota Statutes 2004, section 124D.096, is amended to read:

124D.096 ON-LINE LEARNING AID.

(a) The on-line learning aid for an on-line learning provider equals the product of the adjusted on-line learning average daily membership for students under section 124D.095, subdivision 8, paragraph (d), times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.

(b) Notwithstanding section 127A.45, the department must pay each on-line learning provider ~~80 percent of the current year aid payment percentage multiplied by~~ the amount in paragraph (a) within 45 days of receiving final enrollment and course completion information each quarter or semester. ~~A final payment equal to 20 percent of the amount in paragraph (a). The final adjustment payment must be the amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement. This payment must be made on September 30 of the next fiscal year.~~

Sec. 11. Minnesota Statutes 2004, section 124D.10, subdivision 16, is amended to read:

Subd. 16. **Transportation.** ~~(a) By July 1 of each year, a charter school~~ A charter school after its first fiscal year of operation by March 1 of each fiscal year and a charter school by July 1 of its first fiscal year of operation must notify the district in which the school is located and the Department of Education if it will provide transportation for pupils enrolled in the school its own transportation or use the transportation services of the district in which it is located for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Sec. 12. Minnesota Statutes 2004, section 124D.11, subdivision 9, is amended to read:

Subd. 9. Payment of aids to charter schools. (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school not in its first year of operation shall be of an equal amount on each of the 23 payment dates. A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall be 90 percent of equal the current year aid payment percentage multiplied by the cumulative amount guaranteed.

(b) Notwithstanding paragraph (a), for a charter school ceasing operation prior to the end of a school year, 80 percent of the current year aid payment percentage multiplied by the amount due for the school year may be paid to the school after audit of prior fiscal year and current fiscal year pupil counts. For a charter school ceasing operations prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may be made after audit of pupil counts, monitoring of special education expenditures, and documentation of lease expenditures for the final year of operation. Final payment may be made upon receipt of audited financial statements under section 123B.77, subdivision 3.

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

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

(e) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter school and satisfaction of creditors, cash and investment balances remaining shall be returned to the state.

Sec. 13. Minnesota Statutes 2004, section 124D.61, is amended to read:

124D.61 GENERAL REQUIREMENTS FOR PROGRAMS.

A district which receives aid pursuant to section 124D.65 must comply with that enrolls one or more children of limited English proficiency must implement an educational program that includes at a minimum the following program requirements:

(1) identification and reclassification criteria for children of limited English proficiency and

program entrance and exit criteria for children with limited English proficiency must be documented by the district, applied uniformly to children of limited English proficiency, and made available to parents and other stakeholders upon request;

(2) a written plan of services that describes programming by English proficiency level made available to parents upon request. The plan must articulate the amount and scope of service offered to children of limited English proficiency through an educational program for children of limited English proficiency;

(3) professional development opportunities for ESL, bilingual education, mainstream, and all staff working with children of limited English proficiency which are: (i) coordinated with the district's professional development activities; (ii) related to the needs of children of limited English proficiency; and (iii) ongoing;

(4) to the extent possible, the district must avoid isolating children of limited English proficiency for a substantial part of the school day; and

~~(2)~~ (5) in predominantly nonverbal subjects, such as art, music, and physical education, permit pupils of limited English proficiency ~~shall be permitted~~ to participate fully and on an equal basis with their contemporaries in public school classes provided for these subjects. To the extent possible, the district must assure to pupils enrolled in a program for limited English proficient students an equal and meaningful opportunity to participate fully with other pupils in all extracurricular activities.

Sec. 14. Minnesota Statutes 2004, section 125A.02, subdivision 1, is amended to read:

Subdivision 1. **Child with a disability.** Every child who has a hearing impairment, blindness, visual disability, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning disability, autism, traumatic brain injury, multiple disabilities, or deaf/blind disability and needs special instruction and services, as determined by the standards of the commissioner, is a child with a disability. In addition, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the standards of the commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

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

Sec. 15. Laws 2005, First Special Session chapter 5, article 2, section 84, subdivision 13, is amended to read:

Subd. 13. **Examination fees; teacher training and support programs.** (a) For students' advanced placement and international baccalaureate examination fees under Minnesota Statutes, section 120B.13, subdivision 3, and the training and related costs for teachers and other interested educators under Minnesota Statutes, section 120B.13, subdivision 1:

\$ 4,500,000	2006
\$ 4,500,000	2007

(b) The advanced placement program shall receive 75 percent of the appropriation each year and the international baccalaureate program shall receive 25 percent of the appropriation each year. The department, in consultation with representatives of the advanced placement and international baccalaureate programs selected by the Advanced Placement Advisory Council and IBMN, respectively, shall determine the amounts of the expenditures each year for examination fees and training and support programs for each program.

(c) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 1, at least \$500,000

each year is for teachers to attend subject matter summer training programs and follow-up support workshops approved by the advanced placement or international baccalaureate programs. ~~The amount of the subsidy for each teacher attending an advanced placement or international baccalaureate summer training program or workshop shall be the same. The commissioner shall determine the payment process and the amount of the subsidy. Teachers shall apply for teacher training scholarships to prepare for teaching in the advanced placement or international baccalaureate program. Any reserved funding not expended for teacher training may be used for exam fees and other support programs for each program.~~

(d) The commissioner shall pay all examination fees for all students of low-income families under Minnesota Statutes, section 120B.13, subdivision 3, and to the extent of available appropriations shall also pay examination fees for students sitting for an advanced placement examination, international baccalaureate examination, or both.

Any balance in the first year does not cancel but is available in the second year.

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

Sec. 16. RULE ON VISUALLY IMPAIRED TO INCLUDE REFERENCES TO "BLIND" AND "BLINDNESS."

The commissioner of education, where appropriate, must incorporate references to "blind" and "blindness" into the definition of visually impaired under Minnesota Rules, part 3525.1345, and amend the rule title to include the word "blind."

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

Sec. 17. 2006 SCHOOL ACCOUNTABILITY REPORT.

Notwithstanding Minnesota Statutes, section 120B.36, for 2006 reporting only, the Department of Education may delay the release to the public and the posting of the 2006 school performance report cards and adequate yearly progress data on its public Web site to no later than November 30, 2006.

ARTICLE 3

SPECIAL EDUCATION

Section 1. Minnesota Statutes 2005 Supplement, section 125A.11, subdivision 1, is amended to read:

Subdivision 1. **Nonresident tuition rate; other costs.** (a) For fiscal year 2006, when a school district provides instruction and services outside the district of residence, board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any child with a disability, excluding a pupil for whom tuition is calculated according to section 127A.47, subdivision 7, paragraph (d), must be the sum of (1) the actual cost of providing special instruction and services to the child including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, plus (2) the amount of general education revenue and referendum aid attributable to the pupil, minus (3) the amount of special education aid for children with a disability received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction in and services outside of the regular classroom. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. Notwithstanding chapter 14, the commissioner must then set a date for a hearing or request a written statement from each board, giving each board at least ten days' notice, and after the hearing or review of the written statements the commissioner must make an

order fixing the tuition rate, which is binding on both school districts. General education revenue and referendum aid attributable to a pupil must be calculated using the resident district's average general education and referendum revenue per adjusted pupil unit.

(b) For fiscal year 2007 and later, when a school district provides special instruction and services for a pupil with a disability as defined in section 125A.02 outside the district of residence, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraph (e), special education aid paid to the resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, plus (2) the amount of general education revenue and referendum aid attributable to that pupil, minus (3) the amount of special education aid for children with a disability received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom. General education revenue and referendum aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum aid per adjusted pupil unit. Special education aid paid to the district or cooperative providing special instruction and services for the pupil must be increased by the amount of the reduction in the aid paid to the resident district. Amounts paid to cooperatives under this subdivision and section 127A.47, subdivision 7, shall be recognized and reported as revenues and expenditures on the resident school district's books of account under sections 123B.75 and 123B.76. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aid due to the district.

(c) Notwithstanding paragraphs (a) and (b) and section 127A.47, subdivision 7, paragraphs (d) and (e), a charter school where more than 30 percent of enrolled students receive special education and related services, an intermediate district, ~~or a special education cooperative, or a school district that served as the applicant agency for a group of school districts for federal special education aids for fiscal year 2006~~ may apply to the commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving pupils with a disability. The application must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under this paragraph must be included in the tuition billings or aid adjustments under paragraph (a) or (b), or section 127A.47, subdivision 7, paragraph (d) or (e), as applicable.

(d) For purposes of this subdivision and section 127A.47, subdivision 7, paragraphs (d) and (e), "general education revenue and referendum aid" means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, plus the referendum aid according to section 126C.17, subdivision 7, as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c).

EFFECTIVE DATE. This section is effective for fiscal year 2006.

Sec. 2. Minnesota Statutes 2004, section 125A.515, subdivision 1, is amended to read:

Subdivision 1. **Approval of education programs.** The commissioner shall approve education programs for placement of children and youth in ~~care and treatment residential~~ facilities including detention centers, before being licensed by the Department of Human Services ~~under Minnesota Rules, parts 9545.0905 to 9545.1125 and 9545.1400 to 9545.1480, or the Department of Corrections under Minnesota Rules, chapters 2925, 2930, 2935, and 2950.~~ Education programs in these facilities shall conform to state and federal education laws including the Individuals with Disabilities Education Act (IDEA). This section applies only to placements in facilities licensed by the Department of Human Services or the Department of Corrections.

Sec. 3. Minnesota Statutes 2004, section 125A.515, subdivision 3, is amended to read:

Subd. 3. **Responsibilities for providing education.** (a) The district in which the residential facility is located must provide education services, including special education if eligible, to all students placed in a facility ~~for care and treatment~~.

(b) For education programs operated by the Department of Corrections, the providing district shall be the Department of Corrections. For students remanded to the commissioner of corrections, the providing and resident district shall be the Department of Corrections.

~~(c) Placement for care and treatment does not automatically make a student eligible for special education. A student placed in a care and treatment facility is eligible for special education under state and federal law including the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33.~~

Sec. 4. Minnesota Statutes 2004, section 125A.515, subdivision 5, is amended to read:

Subd. 5. **Education programs for students placed in residential facilities ~~for care and treatment~~.** (a) When a student is placed in a ~~care and treatment~~ facility approved under this section that has an on-site education program, the providing district, upon notice from the care and treatment facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education plan (IEP) and evaluation report, and to determine if the student has been identified as a student with a disability. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

(b) If a student placed ~~for care and treatment under this section~~ has been identified as having a disability and has an individual education plan in the resident district:

(1) the providing agency must conduct an individualized education plan meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education plan goals and objectives and to determine if additional evaluations are necessary; and

(2) at least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education plan meeting:

- (i) the person or agency placing the student;
- (ii) the resident district;
- (iii) the appropriate teachers and related services staff from the providing district;
- (iv) appropriate staff from the ~~care and treatment~~ residential facility;
- (v) the parents or legal guardians of the student; and
- (vi) when appropriate, the student.

(c) For a student who has not been identified as a student with a disability, a screening must be conducted by the providing districts as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

Sec. 5. Minnesota Statutes 2004, section 125A.515, subdivision 6, is amended to read:

Subd. 6. **Exit report summarizing educational progress.** If a student has been placed in a ~~care and treatment~~ facility under this section for 15 or more business days, the providing district must prepare an exit report summarizing the regular education, special education, evaluation, educational progress, and service information and must send the report to the resident district and the next

providing district if different, the parent or legal guardian, and any appropriate social service agency. For students with disabilities, this report must include the student's IEP.

Sec. 6. Minnesota Statutes 2004, section 125A.515, subdivision 7, is amended to read:

Subd. 7. **Minimum educational services required.** When a student is placed in a facility approved under this section, at a minimum, the providing district is responsible for:

(1) the education necessary, including summer school services, for a student who is not performing at grade level as indicated in the education record or IEP; and

(2) a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or education record in consultation with treatment providers, requires an alteration in the length of the school day.

Sec. 7. Minnesota Statutes 2004, section 125A.515, subdivision 9, is amended to read:

Subd. 9. **Reimbursement for education services.** (a) Education services provided to students who have been placed ~~for care and treatment under this section~~ are reimbursable in accordance with special education and general education statutes.

(b) Indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable with special education categorical aids.

(c) Regular education, including screening, provided to students with or without disabilities is not reimbursable with special education categorical aids.

Sec. 8. Minnesota Statutes 2004, section 125A.515, subdivision 10, is amended to read:

Subd. 10. **Students unable to attend school but not ~~placed in care and treatment facilities covered under this section.~~** Students who are absent from, or predicted to be absent from, school for 15 consecutive or intermittent days, and placed at home or in facilities not licensed by the Departments of Corrections or Human Services are ~~not students placed for care and treatment entitled to regular and special education services consistent with applicable law and rule.~~ These students include students with and without disabilities who are home due to accident or illness, in a hospital or other medical facility, or in a day treatment center. ~~These students are entitled to education services through their district of residence.~~

Sec. 9. Minnesota Statutes 2004, section 125A.63, subdivision 4, is amended to read:

Subd. 4. **Advisory committees.** ~~The Special Education Advisory Council commissioner~~ shall establish an advisory committee for each resource center. The advisory committees shall develop recommendations regarding the resource centers and submit an annual report to the commissioner on the form and in the manner prescribed by the commissioner.

Sec. 10. Minnesota Statutes 2004, section 125A.75, subdivision 1, is amended to read:

Subdivision 1. **Travel aid.** The state must pay each district one-half of the sum actually expended by a district, based on mileage, for necessary travel of essential personnel providing home-based services to children with a disability under age five and their families.

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

Sec. 11. Minnesota Statutes 2005 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 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 excluding alternative teacher compensation revenue~~, plus the total qualifying referendum revenue specified in paragraph (e) 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.

(e) "Total qualifying referendum revenue" means two-thirds of the district's total referendum revenue ~~as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c), for fiscal year 2006~~, one-third of the district's total referendum revenue for fiscal year 2007, and none of the district's total referendum revenue for fiscal year 2008 and later.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2006.

Sec. 12. SPECIAL EDUCATION FORECAST MAINTENANCE OF EFFORT.

(a) If, on the basis of a forecast of general fund revenues and expenditures under Minnesota Statutes, section 16A.103; expenditures for special education aid under Minnesota Statutes, section 125A.76; transition for disabled students under Minnesota Statutes, section 124D.454; travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1; aid for students with disabilities under Minnesota Statutes, section 125A.75, subdivision 3; court-placed special education under Minnesota Statutes, section 125A.79, subdivision 4; or out-of-state tuition under Minnesota Statutes, section 125A.79, subdivision 8, are projected to be less than the amount previously forecast for an enacted budget, the forecast excess from these programs, up to an amount sufficient to meet federal special education maintenance of effort, is added to the state total special education aid in Minnesota Statutes, section 125A.76, subdivision 4.

(b) If, on the basis of a forecast of general fund revenues and expenditures under Minnesota Statutes, section 16A.103, expenditures in the programs in this section are projected to be greater than previously forecast for an enacted budget, and an addition to state total special education aid has been made under paragraph (a), the state total special education aid must be reduced by the lesser of the amount of the expenditure increase or the amount previously added to state total special education aid, and this amount must be taken from the programs that were forecast to have a forecast excess.

(c) For the purpose of this section, "previously forecast for an enacted budget" means the allocation of funding for these programs in the most recent forecast of general fund revenues and expenditures or the act appropriating money for these programs, whichever occurred most recently. It does not include planning estimates for a future biennium.

Sec. 13. DEPARTMENT OF EDUCATION RULES.

Before July 1, 2007, the Department of Education shall amend Minnesota Rules, part 3525.2325, to conform with Minnesota Statutes, section 125A.515.

Sec. 14. **REPEALER.**

Minnesota Statutes 2004, sections 125A.10; and 125A.515, subdivision 2, are repealed.

ARTICLE 4

FACILITIES, ACCOUNTING, AND TECHNOLOGY

Section 1. Minnesota Statutes 2004, section 123B.10, subdivision 1, is amended to read:

Subdivision 1. **Budgets.** ~~By October 1,~~ Every board must publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner within one week of the acceptance of the final audit by the board, or November 30, whichever is earlier. The forms prescribed must be designed so that year to year comparisons of revenue, expenditures and fund balances can be made. These budgets, reports of revenue, expenditures and fund balances must be published in a qualified newspaper of general circulation in the district or on the district's official Web site. If published on the district's official Web site, the district must also publish an announcement in a qualified newspaper of general circulation in the district that includes the Internet address where the information has been posted.

Sec. 2. Minnesota Statutes 2004, section 127A.41, subdivision 2, is amended to read:

Subd. 2. **Errors in distribution.** On determining that the amount of state aid distributed to a school district is in error, the commissioner is authorized to adjust the amount of aid consistent with this subdivision. On determining that the amount of aid is in excess of the school district's entitlement, the commissioner is authorized to recover the amount of the excess by any appropriate means. Notwithstanding the fiscal years designated by the appropriation, the excess may be recovered by reducing future aid payments to the district. Notwithstanding any law to the contrary, if the aid reduced is not of the same type as that overpaid, the district must adjust all necessary financial accounts to properly reflect all revenues earned in accordance with the uniform financial accounting and reporting standards pursuant to sections 123B.75 to 123B.83. Notwithstanding the fiscal years designated by the appropriation, on determining that the amount of an aid paid is less than the school district's entitlement, the commissioner is authorized to increase such aid from the current appropriation. If the aid program has been discontinued and has no appropriation, the appropriation for general education shall be used for recovery or payment of the aid decrease or increase. Any excess of aid recovery over aid payment shall be canceled to the state general fund.

Sec. 3. Minnesota Statutes 2004, section 181.101, is amended to read:

181.101 WAGES; HOW OFTEN PAID.

Every employer must pay all wages earned by an employee at least once every 31 days on a regular pay day designated in advance by the employer regardless of whether the employee requests payment at longer intervals. Unless paid earlier, the wages earned during the first half of the first 31-day pay period become due on the first regular payday following the first day of work. If wages earned are not paid, the commissioner of labor and industry or the commissioner's representative may demand payment on behalf of an employee. If payment is not made within ten days of demand, the commissioner may charge and collect the wages earned and a penalty in the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, not exceeding 15 days in all, for each day beyond the ten-day limit following the demand. Money collected by the commissioner must be paid to the employee concerned. This section does not prevent an employee from prosecuting a claim for wages. This section does not prevent a school district ~~or~~ other public school entity, or other school, as defined under section 120A.22, from paying any wages earned by its employees during a school year on regular pay days

in the manner provided by an applicable contract or collective bargaining agreement, or a personnel policy adopted by the governing board. For purposes of this section, "employee" includes a person who performs agricultural labor as defined in section 181.85, subdivision 2. For purposes of this section, wages are earned on the day an employee works.

ARTICLE 5

STATE AGENCIES

Section 1. Minnesota Statutes 2004, section 125A.65, subdivision 3, is amended to read:

Subd. 3. **Educational program; tuition.** (a) When it is determined pursuant to section 125A.69, subdivision 1 or 2, that the child is entitled to attend either school, the board of the Minnesota State Academies must provide the appropriate educational program for the child.

(b) For fiscal year 2006, the board of the Minnesota State Academies must make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged must not exceed the sum of (1) the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child, for the amount of time the child is in the program, plus (2), if the child was enrolled at the Minnesota State Academies on October 1 of the previous fiscal year, the compensatory education revenue attributable to that child under section 126C.10, subdivision 3. The district of the child's residence must pay the tuition and may claim general education aid for the child. Tuition received by the board of the Minnesota State Academies, except for tuition for compensatory education revenue under this paragraph and tuition received under subdivision 4, must be deposited in the state treasury as provided in subdivision 8.

(c) For fiscal year 2007 and later, the district of the child's residence shall claim general education revenue for the child, except as provided in this paragraph. Notwithstanding section 127A.47, subdivision 1, an amount equal to the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child for the amount of time the child is in the program, as adjusted according to subdivision 8, paragraph (d), must be paid to the Minnesota State Academies. Notwithstanding section 126C.15, subdivision 2, paragraph (d), the compensatory education revenue under section 126C.10, subdivision 3, attributable to children enrolled at the Minnesota State Academies on October 1 of the previous fiscal year must be paid to the Minnesota State Academies. General education aid paid to the Minnesota State Academies under this paragraph must be credited to their general operation account. Other general education aid attributable to the child must be paid to the district of the child's residence.

Sec. 2. Minnesota Statutes 2004, section 125A.65, subdivision 4, is amended to read:

Subd. 4. **Unreimbursed costs.** (a) For fiscal year 2006, in addition to the tuition charge allowed in subdivision 3, the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, after deducting the special education aid under section 125A.76, attributable to the child, if that aide is required by the child's individual education plan. Tuition received under this paragraph must be used by the academies to provide the required service.

(b) For fiscal year 2007 and later, the special education aid paid to the academies shall be increased by the academy's unreimbursed cost of providing an instructional aide assigned to a child, after deducting the special education aid under section 125A.76 attributable to the child, if that aide is required by the child's individual education plan. Aid received under this paragraph must be used by the academies to provide the required service.

(c) For fiscal year 2007 and later, the special education aid paid to the district of the child's residence shall be reduced by the amount paid to the academies for district residents under paragraph (b).

(d) Notwithstanding section 127A.45, subdivision 3, beginning in fiscal year 2008, the

commissioner shall make an estimated final adjustment payment to the Minnesota State Academies for general education aid and special education aid for the prior fiscal year by August 15.

Sec. 3. Minnesota Statutes 2004, section 125A.65, subdivision 6, is amended to read:

Subd. 6. **Tuition reduction.** Notwithstanding the provisions of subdivisions 3 and 5, the board of the Minnesota State Academies may agree to make a tuition charge, or receive an aid adjustment, as applicable, for less than the amount specified in subdivision 3 for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the board of the Minnesota State Academies for less than the amount specified in subdivision 5 for providing appropriate educational programs to pupils attending the applicable school.

Sec. 4. Minnesota Statutes 2004, section 125A.65, subdivision 8, is amended to read:

Subd. 8. **Student count; tuition.** (a) On May 1, 1996, and each year thereafter, the board of the Minnesota State Academies shall count the actual number of Minnesota resident special education eligible students enrolled and receiving education services at the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind.

(b) For fiscal year 2006, the board of the Minnesota State Academies shall deposit in the state treasury an amount equal to all tuition received for the basic revenue according to subdivision 3, less the amount calculated in paragraph (b) (c).

~~(b) (c)~~ For fiscal year 2006, the Minnesota State Academies shall credit to their general operation account an amount equal to the tuition received which represents tuition earned for the total number of students over 175 based on:

- (1) the total number of enrolled students on May 1 less 175; times
- (2) the ratio of the number of students in that grade category to the total number of students on May 1; times
- (3) the general education revenue formula allowance; times
- (4) the pupil unit weighting factor pursuant to section 126C.05.

(d) For fiscal year 2007 and later, the Minnesota State Academies shall report to the department the number of students by grade level counted according to paragraph (a). The amount paid to the Minnesota State Academies under subdivision 3, paragraph (c), must be reduced by an amount equal to:

- (1) the ratio of 175 to the total number of students on May 1; times
- (2) the total basic revenue determined according to subdivision 3, paragraph (c).

Sec. 5. Minnesota Statutes 2004, section 125A.65, subdivision 10, is amended to read:

Subd. 10. **Annual appropriation.** There is annually appropriated to the department for the Minnesota State Academies the tuition or aid payment amounts received and credited to the general operation account of the academies under this section. A balance in an appropriation under this paragraph does not cancel but is available in successive fiscal years.

Sec. 6. Minnesota Statutes 2004, section 125A.69, subdivision 3, is amended to read:

Subd. 3. **Out-of-state admissions.** An applicant from another state who can benefit from attending either academy may be admitted to the academy if the admission does not prevent an eligible Minnesota resident from being admitted. The board of the Minnesota State Academies must obtain reimbursement from the other state for the costs of the out-of-state admission. The state board may enter into an agreement with the appropriate authority in the other state for

the reimbursement. Money received from another state must be deposited in the ~~general special revenue~~ fund and credited to the general operating account of the academies. The money is appropriated to the academies.

EFFECTIVE DATE. This section is effective retroactively from fiscal year 2001.

ARTICLE 6

EARLY CHILDHOOD PROVISIONS

Section 1. Minnesota Statutes 2004, section 119A.50, subdivision 1, is amended to read:

Subdivision 1. **Department of Education.** The Department of Education is the state agency responsible for administering the Head Start program. The commissioner of education ~~may make grants~~ shall allocate funds according to the formula in section 119A.52 to public or private nonprofit agencies for the purpose of providing supplemental funds for the federal Head Start program.

Sec. 2. Minnesota Statutes 2004, section 119A.52, is amended to read:

119A.52 DISTRIBUTION OF APPROPRIATION AND PROGRAM COORDINATION.

The commissioner of education must distribute money appropriated for that purpose to federally designated Head Start program grantees programs to expand services and to serve additional low-income children. Money must be allocated to each project Head Start grantee in existence on the effective date of Laws 1989, chapter 282. Migrant and Indian reservation grantees programs must be initially allocated money based on the grantees' programs' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A Head Start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20, 22, and 25 at the start of the fiscal year. In allocating funds under this paragraph, the commissioner of education must assure that each Head Start grantee program in existence in 1993 is allocated no less funding in any fiscal year than was allocated to that grantee program in fiscal year 1993. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees programs, the commissioner must notify each grantee program of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation based upon the federally funded per child rate. Each grantee program must present a work plan to the commissioner for approval. The work plan must include the estimated number of low-income children and families it will be able to serve, a description of the program design and service delivery area which meets the needs of and encourages access by low-income working families, a program design that ensures fair and equitable access to Head Start services for all populations and parts of the service area, and a plan for coordinating services to maximize assistance for child care costs available to families under chapter 119B. under section 119A.535. For any grantee that cannot utilize its full allocation, the commissioner must reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

Sec. 3. Minnesota Statutes 2004, section 119A.53, is amended to read:

119A.53 FEDERAL REQUIREMENTS.

Grantees Programs and the commissioner shall comply with federal regulations governing the federal Head Start program, except for funding for innovative initiatives under section 119A.52 119A.535 as approved by the commissioner, which may be used to operate differently than federal Head Start regulations. If a state statute or rule conflicts with a federal statute or regulation, the state statute or rule prevails.

Sec. 4. **[119A.535] APPLICATION REQUIREMENTS.**

Eligible Head Start organizations must submit a plan to the department for approval on a form and in the manner prescribed by the commissioner. The plan must include:

- (1) the estimated number of low-income children and families the program will be able to serve;
- (2) a description of the program design and service delivery area which meets the needs of and encourages access by low-income working families;
- (3) a program design that ensures fair and equitable access to Head Start services for all populations and parts of the service area;
- (4) a plan for coordinating services to maximize assistance for child care costs available to families under chapter 119B; and
- (5) identification of regular Head Start, early Head Start, and innovative services based upon demonstrated needs to be provided.

Sec. 5. Minnesota Statutes 2004, section 119A.545, is amended to read:

119A.545 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.

The commissioner of education may waive requirements under sections 119A.50 to ~~119A.53~~ 119A.535, for up to nine months after the disaster, for Head Start ~~grantees programs~~ in areas where a federal disaster has been declared under United States Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter 12. The commissioner shall notify the chairs of the ~~appropriate senate Family and Early Childhood Education Budget Division, the senate Education Finance Committee, the and house Family and Early Childhood Education Finance Division, the house Education Committee, and the house Ways and Means Committee~~ committees ten days before the effective date of any waiver granted under this section.

Sec. 6. Minnesota Statutes 2005 Supplement, section 121A.17, subdivision 5, is amended to read:

Subd. 5. **Developmental screening program information.** The board must inform each resident family with a child eligible to participate in the developmental screening program about the availability of the program and the state's requirement that a child receive a developmental screening or provide health records indicating that the child received a comparable developmental screening from a public or private health care organization or individual health care provider not later than 30 days after the first day of attending kindergarten in a public school. A school district must inform all resident families with eligible children under age seven that their children may receive a developmental screening conducted either by the school district or by a public or private health care organization or individual health care provider, and that if a statement signed by the child's parent or guardian is submitted to the administrator or other person having general control and supervision of the school that the child has not been screened because of conscientiously held beliefs of the parent or guardian, the screening is not required.

Sec. 7. Minnesota Statutes 2004, section 124D.13, subdivision 2, is amended to read:

Subd. 2. **Program characteristics.** (a) Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents and other relatives of such these children, and for expectant parents. To the extent that funds are insufficient to provide programs for all children, early childhood family education programs should emphasize programming for a child from birth to age three and encourage parents and other relatives to involve four- and five-year-old children in school readiness programs, and other public and nonpublic early learning programs. Early childhood family education programs may include the following:

- (1) programs to educate parents and other relatives about the physical, mental, and emotional development of children;

- (2) programs to enhance the skills of parents and other relatives in providing for their children's learning and development;
- (3) learning experiences for children and parents and other relatives that promote children's development;
- (4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;
- (5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;
- (6) educational materials which may be borrowed for home use;
- (7) information on related community resources;
- (8) programs to prevent child abuse and neglect;
- (9) other programs or activities to improve the health, development, and school readiness of children; or
- (10) activities designed to maximize development during infancy.

The programs must not include activities for children that do not require substantial involvement of the children's parents or other relatives. The programs must be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs must encourage parents to be aware of practices that may affect equitable development of children.

(b) For the purposes of this section, "relative" or "relatives" means noncustodial grandparents or other persons related to a child by blood, marriage, adoption, or foster placement, excluding parents.

Sec. 8. Minnesota Statutes 2004, section 124D.13, subdivision 3, is amended to read:

Subd. 3. **Substantial parental involvement.** The requirement of substantial parental or other relative involvement in subdivision 2 means that:

- (a) parents or other relatives must be physically present much of the time in classes with their children or be in concurrent classes;
- (b) parenting education or family education must be an integral part of every early childhood family education program;
- (c) early childhood family education appropriations must not be used for traditional day care or nursery school, or similar programs; and
- (d) the form of parent involvement common to kindergarten, elementary school, or early childhood special education programs such as parent conferences, newsletters, and notes to parents do not qualify a program under subdivision 2.

Sec. 9. Laws 2005, First Special Session chapter 5, article 7, section 20, subdivision 5, is amended to read:

Subd. 5. **Head Start program.** For Head Start programs under Minnesota Statutes, section 119A.52:

\$	19,100,000	2006
\$	19,100,000	2007

Any balance in the first year does not cancel but is available in the second year.

Sec. 10. **REPEALER.**

Minnesota Statutes 2004, section 119A.51, is repealed.

ARTICLE 7

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2005 Supplement, section 120B.11, subdivision 2, is amended to read:

Subd. 2. **Adopting policies.** ~~(a)~~ A school board shall have in place an adopted written policy that includes the following:

- (1) district goals for instruction including the use of best practices, district and school curriculum, and achievement for all student subgroups;
- (2) a process for evaluating each student's progress toward meeting academic standards and identifying the strengths and weaknesses of instruction and curriculum affecting students' progress;
- (3) a system for periodically reviewing and evaluating all instruction and curriculum;
- (4) a plan for improving instruction, curriculum, and student achievement; and
- (5) an education effectiveness plan aligned with section 122A.625 that integrates instruction, curriculum, and technology.

Sec. 2. Minnesota Statutes 2004, section 121A.15, subdivision 10, is amended to read:

Subd. 10. **Requirements for immunization statements.** (a) A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

~~(a) For persons enrolled in grades 7 and 12 during the 1996-1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(b) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, and 12 during the 1997-1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(c) Except as specified in paragraph (e), for persons enrolled in grades 7 through 12 during the 1998-1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(d) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.~~

~~(e)~~ (b) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

~~(f)~~ (c) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000-2001 school term.

~~(g)~~ (d) The requirement for hepatitis B vaccination shall apply to persons enrolling in grade 7

beginning with the 2001-2002 school term.

Sec. 3. Minnesota Statutes 2005 Supplement, section 123B.04, subdivision 2, is amended to read:

Subd. 2. **Agreement.** (a) Upon the request of 60 percent of the licensed employees of a site or a school site decision-making team, the school board shall enter into discussions to reach an agreement concerning the governance, management, or control of the school. A school site decision-making team may include the school principal, teachers in the school or their designee, other employees in the school, representatives of pupils in the school, or other members in the community. A school site decision-making team must include at least one parent of a pupil in the school. For purposes of formation of a new site, a school site decision-making team may be a team of teachers that is recognized by the board as a site. The school site decision-making team shall include the school principal or other person having general control and supervision of the school. The site decision-making team must reflect the diversity of the education site. At least one-half of the members shall be employees of the district, unless an employee is the parent of a student enrolled in the school site, in which case the employee may elect to serve as a parent member of the site team.

(b) School site decision-making agreements must delegate powers, duties, and broad management responsibilities to site teams and involve staff members, students as appropriate, and parents in decision making.

(c) An agreement shall include a statement of powers, duties, responsibilities, and authority to be delegated to and within the site.

(d) An agreement may include:

(1) an achievement contract according to subdivision 4;

(2) a mechanism to allow principals, a site leadership team, or other persons having general control and supervision of the school, to make decisions regarding how financial and personnel resources are best allocated at the site and from whom goods or services are purchased;

(3) a mechanism to implement parental involvement programs under section 124D.895 and to provide for effective parental communication and feedback on this involvement at the site level;

(4) a provision that would allow the team to determine who is hired into licensed and nonlicensed positions;

(5) a provision that would allow teachers to choose the principal or other person having general control;

(6) an amount of revenue allocated to the site under subdivision 3; and

(7) any other powers and duties determined appropriate by the board.

The school board of the district remains the legal employer under clauses (4) and (5).

(e) Any powers or duties not delegated to the school site management team in the school site management agreement shall remain with the school board.

(f) Approved agreements shall be filed with the commissioner. If a school board denies a request or the school site and school board fail to reach an agreement to enter into a school site management agreement, the school board shall provide a copy of the request and the reasons for its denial to the commissioner.

(g) A site decision-making grant program is established, consistent with this subdivision, to allow sites to implement an agreement that at least:

(1) notwithstanding subdivision 3, allocates to the site all revenue that is attributable to the students at that site;

(2) includes a provision, consistent with current law and the collective bargaining agreement in effect, that allows the site team to decide who is selected from within the district for licensed and nonlicensed positions at the site and to make staff assignments in the site; and

(3) includes a completed performance agreement under subdivision 4.

The commissioner shall establish the form and manner of the application for a grant and annually, at the end of each fiscal year, report to the house of representatives and senate committees having jurisdiction over education on the progress of the program.

Sec. 4. Minnesota Statutes 2004, section 125A.62, subdivision 1, is amended to read:

Subdivision 1. **Governance.** The board of the Minnesota State Academies shall govern the State Academies, Academy for the Deaf and the State Academy for the Blind. The board must promote academic standards based on high expectation and an assessment system to measure academic performance toward the achievement of those standards. The board must focus on the academies' needs as a whole and not prefer one school over the other. The board of the Minnesota State Academies shall consist of nine persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. One member must be from the seven-county metropolitan area, one member must be from greater Minnesota, and one member may be appointed at-large. The board must be composed of:

- (1) one present or former superintendent of an independent school district;
- (2) one present or former special education director;
- (3) the commissioner of education or the commissioner's designee;
- (4) one member of the blind community;
- (5) one member of the deaf community;
- (6) two members of the general public with business, administrative, or financial expertise;
- (7) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Deaf; and
- (8) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Blind.

Sec. 5. Minnesota Statutes 2005 Supplement, section 126C.10, subdivision 24, is amended to read:

Subd. 24. **Equity revenue.** (a) A school district qualifies for equity revenue if:

(1) the school district's adjusted marginal cost pupil unit amount of basic revenue, supplemental revenue, transition revenue, and referendum revenue is less than the value of the school district at or immediately above the 95th percentile of school districts in its equity region for those revenue categories; and

(2) the school district's administrative offices are not located in a city of the first class on July 1, 1999.

(b) Equity revenue for a qualifying district that receives referendum revenue under section 126C.17, subdivision 4, equals the product of (1) the district's adjusted marginal cost pupil units for that year; times (2) the sum of (i) \$13, plus (ii) \$75, times the school district's equity index computed under subdivision 27.

(c) Equity revenue for a qualifying district that does not receive referendum revenue under section 126C.17, subdivision 4, equals the product of the district's adjusted marginal cost pupil units for that year times \$13.

(d) A school district's equity revenue is increased by the greater of zero or an amount equal to the district's resident marginal cost pupil units times the difference between ten percent of the statewide average amount of referendum revenue per resident marginal cost pupil unit for that year and the district's referendum revenue per resident marginal cost pupil unit. A school district's revenue under this paragraph must not exceed \$100,000 for that year.

(e) A school district's equity revenue for a school district located in the metro equity region equals the amount computed in paragraphs (b), (c), and (d) multiplied by 1.25.

(f) For fiscal year 2007 and later, notwithstanding paragraph (a), clause (2), a school district that has per pupil referendum revenue below the 95th percentile qualifies for additional equity revenue equal to \$46 times its adjusted marginal cost pupil unit.

(g) A district that does not qualify for revenue under paragraph (f) qualifies for equity revenue equal to one-half of the per pupil allowance in paragraph (f) times its adjusted marginal cost pupil units.

Sec. 6. Minnesota Statutes 2005 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

(1) egregious harm as defined in section 260C.007, subdivision 14;

(2) sexual abuse as defined in paragraph (d);

(3) abandonment under section 260C.301, subdivision 2;

(4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(6) manslaughter in the first or second degree under section 609.20 or 609.205;

- (7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (12) use of a minor in sexual performance under section 617.246; or
- (13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger

to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; ~~or~~

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

(o) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety."

Amend the title accordingly

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

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

H.F. No. 3458 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS

H.F. No.	S.F. No.
3458	3169

CONSENT CALENDAR

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

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

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

SECOND READING OF SENATE BILLS

S.F. Nos. 3049, 2651 and 3770 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2916 and 3458 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Fischbach moved that her name be stricken as a co-author to S.F. No. 3055. The motion prevailed.

Senator Robling moved that her name be stricken as a co-author to S.F. No. 3055. The motion prevailed.

Senator Gerlach moved that name of Senator Nienow be added as a co-author to S.F. No. 3809. The motion prevailed.

Senator Reiter moved that the names of Senators Koch, Nienow and Hann be added as co-authors to S.F. No. 3812. The motion prevailed.

Senator Olson introduced –

Senate Resolution No. 212: A Senate resolution recognizing Superintendent of Westonka ISD #277 Gene Zulk on his retirement.

Referred to the Committee on Rules and Administration.

Senators Hottinger and Frederickson introduced –

Senate Resolution No. 213: A Senate resolution congratulating Nicollet Public School on the dedication of two new additions to its school building

Referred to the Committee on Rules and Administration.

Senator Dille moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Vickerman be shown as chief author to S.F. No. 3333. The motion prevailed.

Senator Johnson, D.E. moved that H.F. No. 3761 be taken from the table. The motion prevailed.

H.F. No. 3761: A bill for an act relating to transportation; authorizing sale of trunk highway bonds for capital improvements related to transportation; establishing transit fund and accounts; providing for treatment and allocation of tax proceeds related to motor vehicles; modifying

proposed amendment to Minnesota Constitution and its proposed ballot question; setting certain court deadlines and procedures; modifying provisions relating to the town bridge account, town road construction and maintenance, old automobile liens, public highway contracts, allowable vehicle weights on highways, tow truck operators, impounded vehicles, highway signs, motorized golf carts, area transportation partnerships, the rail service improvement account, the tax attributable to fuel used by all-terrain vehicles, and a connector highway agreement; repealing authority for future toll facilities; requiring studies and reports; appropriating money; amending Minnesota Statutes 2004, sections 16A.88; 161.082, subdivision 2a; 161.315, by adding a subdivision; 168B.06, subdivision 1; 168B.07, by adding a subdivision; 169.06, subdivision 2; 169.823, subdivision 1; 169.824, subdivision 1; 169.829, subdivision 2; 169.86, by adding a subdivision; 169.87, subdivision 2; 222.50, subdivisions 6, 7; 296A.18, subdivision 4; 297A.94; 297B.09, subdivision 1; 471.345, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 168A.20, subdivision 5; 169.01, subdivision 78; 169.81, subdivision 3c; 169.824, subdivision 2; 297A.815, by adding a subdivision; 469.322; 469.323, subdivision 2; Laws 2005, chapter 88, article 3, sections 9; 10; proposing coding for new law in Minnesota Statutes, chapters 160; 167; 174; repealing Minnesota Statutes 2004, sections 160.84; 160.85; 160.86; 160.87; 160.88; 160.89; 160.90; 160.91; 160.92.

SUSPENSION OF RULES

Senator Johnson, D.E. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 3761 and that the rules of the Senate be so far suspended as to give H.F. No. 3761 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 3761 was read the second time.

Senator Murphy moved to amend H.F. No. 3761 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 3761, and insert the language after the enacting clause, and the title, of S.F. No. 3764, the second engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 3761 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 44 and nays 18, as follows:

Those who voted in the affirmative were:

Bakk	Hann	Kubly	Neuville	Scheid
Belanger	Higgins	Langseth	Nienow	Senjem
Clark	Hottinger	Larson	Pogemiller	Skoe
Day	Johnson, D.E.	Limmer	Reiter	Solon
Dille	Johnson, D.J.	Lourey	Robling	Sparks
Fischbach	Jungbauer	McGinn	Rosen	Stumpf
Foley	Kelley	Metzen	Ruud	Vickerman
Frederickson	Kiscaden	Michel	Sams	Wiger
Gerlach	Koering	Murphy	Saxhaug	

Those who voted in the negative were:

Anderson	Bonoff	Koch	Moua	Rest
Bachmann	Chaudhary	LeClair	Ortman	Skoglund
Berglin	Cohen	Marko	Pappas	
Betzold	Dibble	Marty	Ranum	

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

MOTIONS AND RESOLUTIONS - CONTINUED**SUSPENSION OF RULES**

Senator Johnson, D.E. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 2916 and that the rules of the Senate be so far suspended as to give H.F. No. 2916, now on the General Orders, its third reading and place it on its final passage. The motion prevailed.

H.F. No. 2916: A bill for an act relating to public safety; establishing the fire safety account from revenues on fire premiums and assessments; abolishing the fire insurance tax; appropriating money; amending Minnesota Statutes 2004, section 297I.30, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 297I; 299F; repealing Minnesota Statutes 2004, section 297I.05, subdivision 6.

Senator Rest moved that the amendment made to H.F. No. 2916 by the Committee on Finance in the report adopted May 17, 2006, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 2916 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 7, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berglin	Gerlach	Limmer	Pogemiller
Dibble	LeClair	Ortman	

So the bill 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 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.

Senators Marty and Murphy introduced—

S.F. No. 3813: A bill for an act relating to transportation safety; prohibiting sale, registration, or use of vehicles with high-intensity discharge headlamps; amending Minnesota Statutes 2004, section 169.64, by adding a subdivision.

Referred to the Committee on Transportation.

Senators Kubly, Sams and Rosen introduced—

S.F. No. 3814: A bill for an act relating to small and emerging entrepreneurial assistance; amending Minnesota Statutes 2004, section 116J.8745.

Referred to the Committee on Jobs, Energy and Community Development.

Senators Tomassoni, Lourey, Bakk and Solon introduced—

S.F. No. 3815: A bill for an act relating to state government; clarifying the Iron Range Resources and Rehabilitation Board's funds expenditure approval process; amending Minnesota Statutes 2004, sections 298.22, subdivision 1, by adding a subdivision; 298.2213, subdivision 4; 298.223, subdivisions 2, 3; 298.296, subdivision 2; Minnesota Statutes 2005 Supplement, section 298.296, subdivision 1; repealing Minnesota Statutes 2005 Supplement, section 298.298.

Referred to the Committee on Finance.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Johnson, D.E. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 3185: Senators Scheid, Jungbauer and Bakk.

H.F. No. 3779: Senators Dille, Solon and Neuville.

H.F. No. 2892: Senators Hottinger, Rosen and Sparks.

Senator Johnson, D.E. moved that the foregoing appointments be approved. The motion prevailed.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess until 1:00 p.m. The motion prevailed.

The hour of 1:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

REPORTS OF COMMITTEES

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

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

S.F. No. 3282: A bill for an act relating to public safety; increasing 911 emergency telecommunications service fee; providing for completion of statewide public safety radio communication system; authorizing sale of state 911 revenue bonds; appropriating money; amending Minnesota Statutes 2005 Supplement, section 403.11, subdivision 1.

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

Page 2, line 8, delete "..." and insert "93"

Page 2, after line 28, insert:

"EFFECTIVE DATE. This section is effective January 1, 2007."

Page 2, delete section 2

Page 5, after line 6, insert:

"Sec. 3. **APPROPRIATIONS.**

Subdivision 1. Commissioner of finance. \$9,562,000 in the fiscal year ending June 30, 2007, is appropriated from the 911 emergency telecommunications service account in the special revenue fund to the commissioner of finance to pay debt service on revenue bonds issued under Minnesota Statutes, section 403.275. Any portion of this appropriation not needed to pay debt service in a fiscal year may be used by the commissioner of public safety to pay cash for any of the capital improvements for which bond proceeds are appropriated in section 2.

Subd. 2. Commissioner of public safety. \$234,000 in the fiscal year ending June 30, 2007, is appropriated from the 911 emergency telecommunications service account in the special revenue fund to the commissioner of public safety to supervise construction and operation of the public safety radio and communication system."

Renumber the sections in sequence

Amend the title accordingly

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

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

S.F. No. 2672: A bill for an act relating to employment; requiring certain health cost payments

by large employers; proposing coding for new law in Minnesota Statutes, chapter 177.

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

Page 2, line 13, delete everything after the second "fund" and insert a period

Page 2, delete lines 14 and 15

Page 2, delete lines 29 to 31

Page 2, after line 32, insert:

"Sec. 4. **APPROPRIATION.**

\$163,000 is appropriated from the health care access fund to the commissioner of labor and industry to pay administrative costs related to this act, to be available for the fiscal year ending June 30, 2007, provided that the amount available must not exceed five percent of the payments received under Minnesota Statutes, section 177.46, subdivision 2."

Amend the title accordingly

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

SECOND READING OF SENATE BILLS

S.F. Nos. 3282 and 2672 were read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 2723 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2723: A bill for an act relating to the environment; requiring a report by the Pollution Control Agency on new public wastewater treatment facilities that do not meet water quality discharge standards; requiring proposals for new wastewater treatment facilities to include information on operating and maintenance costs during the first five years of operation; amending Minnesota Statutes 2004, section 115.447; proposing coding for new law in Minnesota Statutes, chapter 115.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Johnson, D.J.	Larson	Moua
Bakk	Dille	Jungbauer	LeClair	Murphy
Belanger	Fischbach	Kelley	Limmer	Neuville
Berglin	Foley	Kierlin	Lourey	Nienow
Betzold	Frederickson	Kiscaden	Marko	Olson
Bonoff	Gerlach	Koch	Marty	Ortman
Chaudhary	Hann	Koering	McGinn	Pappas
Clark	Higgins	Kubly	Metzen	Ranum
Day	Johnson, D.E.	Langseth	Michel	Reiter

Robling	Saxhaug	Skoglund	Tomassoni
Rosen	Scheid	Solon	Vickerman
Ruud	Senjem	Sparks	Wiger
Sams	Skoe	Stumpf	

So the bill passed and its title was agreed to.

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated H.F. No. 2688 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 2688: A bill for an act relating to veterans; authorizing the placement of a plaque on the Capitol grounds honoring the nation's war dogs and their handlers; establishing a task force; requiring a report.

Senator Vickerman moved that the amendment made to H.F. No. 2688 by the Committee on Rules and Administration in the report adopted May 9, 2006, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 2688 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 3480 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 3480: A bill for an act relating to commerce; regulating license education; regulating certain insurers, insurance forms and rates, coverages, filings, utilization reviews, and claims; regulating the Minnesota uniform health care identification card; amending Minnesota Statutes 2004, sections 61A.02, subdivision 3; 61A.092, subdivision 3; 62A.02, subdivision 3; 62A.095, subdivision 1; 62A.17, subdivisions 1, 2; 62A.27; 62A.3093; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62J.60, subdivisions 2, 3; 62L.02, subdivision 24; 62M.01, subdivision 2; 62M.09, subdivision 9; 70A.07; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 62Q.75, subdivision 3; 65B.49, subdivision 5a; 72A.201, subdivision 6; 79A.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Rules,

parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600.

Senator Scheid moved to amend S.F. No. 3480 as follows:

Page 1, line 19, strike "(a)"

Page 4, after line 2, insert:

"Sec. 5. **[61A.65] INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.**

Subdivision 1. **Enactment and form.** The Interstate Insurance Product Regulation Compact is enacted into law and entered into with all other states legally joining in it in substantially the following form:

Article I. Purposes

The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;
2. To develop uniform standards for insurance products covered under the Compact;
3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States;
4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;
5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;
6. To create the Interstate Insurance Product Regulation Commission; and
7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Article II. Definitions

For purposes of this Compact:

1. "Advertisement" means any material designed to create public interest in a Product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the Rules and Operating Procedures of the Commission.
2. "Bylaws" mean those bylaws established by the Commission for its governance, or for directing or controlling the Commission's actions or conduct.
3. "Compacting State" means any State which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.
4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by this Compact.
5. "Commissioner" means the chief insurance regulatory official of a State including, but not limited to commissioner, superintendent, director or administrator.

6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien Insurer, its state of entry.

7. "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines of insurance covered by this Act.

8. "Member" means the person chosen by a Compacting State as its representative to the Commission, or his or her designee.

9. "Noncompacting State" means any State which is not at the time a Compacting State.

10. "Operating Procedures" mean procedures promulgated by the Commission implementing a Rule, Uniform Standard, or a provision of this Compact.

11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.

12. "Rule" means a statement of general or particular applicability and future effect promulgated by the Commission, including a Uniform Standard developed pursuant to Article VII of this Compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the Compacting States.

13. "State" means any state, district, or territory of the United States of America.

14. "Third Party Filer" means an entity that submits a Product filing to the Commission on behalf of an Insurer.

15. "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided, that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a Product and the form of the Product made available to the public shall not be unfair, inequitable or against public policy as determined by the Commission.

Article III. Establishment of the Commission and Venue

1. The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided, it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any Insurer from filing its product in any State wherein the Insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the State where filed.

2. The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

3. The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a Court of competent jurisdiction where the principal office of the Commission is located.

Article IV. Powers of the Commission

The Commission shall have the following powers:

1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

2. To exercise its rule-making authority and establish reasonable Uniform Standards for Products covered under the Compact, and Advertisement related thereto, which shall have the force and effect of law and shall be binding in the Compacting States, but only for those Products filed with the Commission, provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any Uniform Standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards established by the Commission for long-term care insurance products;

3. To receive and review in an expeditious manner Products filed with the Commission, and rate filings for disability income and long-term care insurance Products, and give approval of those Products and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and effect of law and be binding on the Compacting States to the extent and in the manner provided in the Compact;

4. To receive and review in an expeditious manner Advertisement relating to long-term care insurance products for which Uniform Standards have been adopted by the Commission, and give approval to all Advertisement that satisfies the applicable Uniform Standard. For any product covered under this Compact, other than long-term care insurance products, the Commission shall have the authority to require an insurer to submit all or any part of its Advertisement with respect to that product for review or approval prior to use, if the Commission determines that the nature of the product is such that an Advertisement of the product could have the capacity or tendency to mislead the public. The actions of the Commission as provided in this section shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in the Compact;

5. To exercise its rule-making authority and designate Products and Advertisement that may be subject to a self-certification process without the need for prior approval by the Commission;

6. To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be binding in the Compacting States to the extent and in the manner provided in this compact;

7. To bring and prosecute legal proceedings or actions in its name as the Commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

9. To establish and maintain offices;

10. To purchase and maintain insurance and bonds;

11. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compacting State;

12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their

compensation, define their duties and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

16. To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules or Operating Procedures;

17. To enforce compliance by Compacting States with Rules, Uniform Standards, Operating Procedures and Bylaws;

18. To provide for dispute resolution among Compacting States;

19. To advise Compacting States on issues relating to Insurers domiciled or doing business in Noncompacting jurisdictions, consistent with the purposes of this Compact;

20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

21. To establish a budget and make expenditures;

22. To borrow money;

23. To appoint committees, including advisory committees comprising Members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the Bylaws;

24. To provide and receive information from, and to cooperate with law enforcement agencies;

25. To adopt and use a corporate seal; and

26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

Article V. Organization of the Commission

1. Membership, Voting and Bylaws

a. Each Compacting State shall have and be limited to one Member. Each Member shall be qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may be removed or suspended from office as provided by the law of the State from which he or she shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a Compacting State determines the election or appointment and qualification of its own Commissioner.

b. Each Member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to the contrary, no action of the Commission with respect to the promulgation of a Uniform

Standard shall be effective unless two-thirds of the Members vote in favor thereof.

c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact, including, but not limited to:

i. Establishing the fiscal year of the Commission;

ii. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the Management Committee;

iii. Providing reasonable standards and procedures: (i) for the establishment and meetings of other committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

iv. Providing reasonable procedures for calling and conducting meetings of the Commission that consist of a majority of Commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The Commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii) votes taken during such meeting;

v. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

vi. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

vii. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

viii. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.

d. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

2. Management Committee, Officers and Personnel

a. A Management Committee comprising no more than 14 members shall be established as follows:

i. One member from each of the six Compacting States with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the NAIC for the prior year;

ii. Four members from those Compacting States with at least two percent of the market based on the premium volume described above, other than the six Compacting States with the largest premium volume, selected on a rotating basis as provided in the Bylaws; and

iii. Four members from those Compacting States with less than two percent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the NAIC as provided in the Bylaws.

b. The Management Committee shall have such authority and duties as may be set forth in the Bylaws, including but not limited to:

i. Managing the affairs of the Commission in a manner consistent with the Bylaws and purposes of the Commission;

ii. Establishing and overseeing an organizational structure within, and appropriate procedures for, the Commission to provide for the creation of Uniform Standards and other Rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a Compacting State to opt out of a Uniform Standard; provided that a Uniform Standard shall not be submitted to the Compacting States for adoption unless approved by two-thirds of the members of the Management Committee;

iii. Overseeing the offices of the Commission; and

iv. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Commission.

c. The Commission shall elect annually officers from the Management Committee, with each having such authority and duties, as may be specified in the Bylaws.

d. The Management Committee may, subject to the approval of the Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Commission may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

3. Legislative and Advisory Committees

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the Commission, including the Management Committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the Bylaws. Prior to the adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual budget or other significant matter as may be provided in the Bylaws, the Management Committee shall consult with and report to the legislative committee.

b. The Commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The Commission may establish additional advisory committees as its Bylaws may provide for the carrying out of its functions.

4. Corporate Records of the Commission

The Commission shall maintain its corporate books and records in accordance with the Bylaws.

5. Qualified Immunity, Defense, and Indemnification

a. The Members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

b. The Commission shall defend any Member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

c. The Commission shall indemnify and hold harmless any Member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

Article VI. Meetings and Acts of the Commission

1. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

2. Each Member of the Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Commission. A Member shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Members' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meeting shall be held as set forth in the Bylaws.

Article VII. Rules and Operating Procedures: Rulemaking Functions of the Commission and Opting Out of Uniform Standards

1. Rulemaking Authority. The Commission shall promulgate reasonable Rules, including Uniform Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall become effective 90 days after its promulgation by the Commission or such later date as the Commission may determine; provided, however, that a Compacting State may opt out of a Uniform Standard as provided in this Article. "Opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto, shall become effective as of the date specified in each Rule, Operating Procedure, or amendment.

4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard, either by

legislation or regulation duly promulgated by the Insurance Department under the Compacting State's Administrative Procedure Act. If a Compacting State elects to opt out of a Uniform Standard by regulation, it must (a) give written notice to the Commission no later than ten business days after the Uniform Standard is promulgated, or at the time the State becomes a Compacting State and (b) find that the Uniform Standard does not provide reasonable protections to the citizens of the State, given the conditions in the State. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the State which warrant a departure from the Uniform Standard and determining that the Uniform Standard would not reasonably protect the citizens of the State. The Commissioner must consider and balance the following factors and find that the conditions in the State and needs of the citizens of the State outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the Products subject to this Act; and (ii) the presumption that a Uniform Standard adopted by the Commission provides reasonable protections to consumers of the relevant Product.

Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all existing Uniform Standards involving long-term care insurance products and those subsequently promulgated.

5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard, the Uniform Standard shall remain applicable in the Compacting State electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the Uniform Standard has been made effective in that State, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.

6. Stay of Uniform Standard. If a Compacting State has formally initiated the process of opting out of a Uniform Standard by regulation, and while the regulatory opt out is pending, the Compacting State may petition the Commission, at least 15 days before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone the effective date by up to 90 days, unless affirmatively extended by the Commission; provided, a stay may not be permitted to remain in effect for more than one year unless the Compacting State can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the Compacting State from opting out. A stay may be terminated by the Commission upon notice that the rulemaking process has been terminated.

7. Not later than 30 days after a Rule or Operating Procedure is promulgated, any person may file a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Commission consistent with applicable law and shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the Commission's authority.

Article VIII. Commission Records and Enforcement

1. The Commission shall promulgate Rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The Commission may promulgate additional Rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the duty to disclose any relevant records, data or information to the Commission; provided, that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any Commissioner.

3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any noncomplying Compacting State in writing of its noncompliance with Commission Bylaws, Rules or Operating Procedures. If a noncomplying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

4. The Commissioner of any State in which an Insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's enforcement of compliance with the Compact is governed by the following provisions:

a. With respect to the Commissioner's market regulation of a Product or Advertisement that is approved or certified to the Commission, the content of the Product or Advertisement shall not constitute a violation of the provisions, standards or requirements of the Compact except upon a final order of the Commission, issued at the request of a Commissioner after prior notice to the Insurer and an opportunity for hearing before the Commission.

b. Before a Commissioner may bring an action for violation of any provision, standard or requirement of the Compact relating to the content of an Advertisement not approved or certified to the Commission, the Commission, or an authorized Commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the Insurer, opportunity for hearing or disclosure of requests for authorization or records of the Commission's action on such requests.

Article IX. Dispute Resolution

The Commission shall attempt, upon the request of a Member, to resolve any disputes or other issues that are subject to this Compact and which may arise between two or more Compacting States, or between Compacting States and Noncompacting States, and the Commission shall promulgate an Operating Procedure providing for resolution of such disputes.

Article X. Product Filing and Approval

1. Insurers and Third Party Filers seeking to have a Product approved by the Commission shall file the Product with, and pay applicable filing fees to, the Commission. Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from filing its Product with the insurance department in any State wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the States where filed.

2. The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary, the Commission shall promulgate Rules to establish conditions and procedures under which the Commission will provide public access to Product filing information. In establishing such Rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a Product filing or supporting information.

3. Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.

Article XI. Review of Commission Decisions Regarding Filings

1. Not later than 30 days after the Commission has given notice of a disapproved Product or Advertisement filed with the Commission, the Insurer or Third Party Filer whose filing was disapproved may appeal the determination to a review panel appointed by the Commission. The Commission shall promulgate Rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the Commission, in disapproving a Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section 4.

2. The Commission shall have authority to monitor, review and reconsider Products and Advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section 1 above.

Article XII. Finance

1. The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the Commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, Compacting States, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

2. The Commission shall collect a filing fee from each Insurer and Third Party Filer filing a product with the Commission to cover the cost of the operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

3. The Commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

4. The Commission shall be exempt from all taxation in and by the Compacting states.

5. The Commission shall not pledge the credit of any Compacting State, except by and with the appropriate legal authority of that Compacting State.

6. The Commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its Bylaws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an Annual Report to the Governor and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner

of any Compacting State upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

7. No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

Article XIII. Compacting States, Effective Date and Amendment

1. Any State is eligible to become a Compacting State.

2. The Compact shall become effective and binding upon legislative enactment of the Compact into law by two Compacting States; provided, the Commission shall become effective for purposes of adopting Uniform Standards for, reviewing, and giving approval or disapproval of, Products filed with the Commission that satisfy applicable Uniform Standards only after 26 States are Compacting States or, alternatively, by States representing greater than 40 percent of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State.

3. Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

Article XIV. Withdrawal, Default and Termination

1. Withdrawal

a. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any Advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State unless the approval is rescinded by the Withdrawing State as provided in Paragraph e of this section.

c. The Commissioner of the Withdrawing State shall immediately notify the Management Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

d. The Commission shall notify the other Compacting States of the introduction of such legislation within ten days after its receipt of notice thereof.

e. The Withdrawing State is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any Compacting State shall occur upon the effective date of the Withdrawing State reenacting the Compact.

2. Default

a. If the Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws, all rights, privileges and benefits conferred by this Compact on the Defaulting State shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, failure of a Compacting State to perform its obligations or responsibilities, and any other grounds designated in Commission Rules. The Commission shall immediately notify the Defaulting State in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Commission, the Defaulting State shall be terminated from the Compact and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination.

b. Product approvals by the Commission or product self-certifications, or any Advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant to Section 1 of this article.

c. Reinstatement following termination of any Compacting State requires a reenactment of the Compact.

3. Dissolution of Compact

a. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

b. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

Article XV. Severability and Construction

1. The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

Article XVI. Binding Effect of Compact and Other Laws

1. Other Laws

a. Nothing herein prevents the enforcement of any other law of a Compacting State, except as provided in Paragraph b of this section.

b. For any Product approved or certified to the Commission, the Rules, Uniform Standards, and any other requirements of the Commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such Products. For Advertisement that is subject to the Commission's authority, any Rule, Uniform Standard, or other requirement of the Commission which governs the content of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) state law relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

c. All insurance products filed with individual States shall be subject to the laws of those States.

2. Binding Effect of this Compact

a. All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.

b. All agreements between the Commission and the Compacting States are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of Commission actions, and upon a majority vote of the Compacting States, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by that provision upon the Commission shall be ineffective as to that Compacting State, and those obligations, duties, powers, or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

Subd. 2. Commission representative. The commissioner of commerce is the representative of this state to the commission."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Lourey moved to amend the Scheid amendment to S.F. No. 3480 as follows:

Page 10, after line 32, insert:

"As authorized by the preceding paragraph, the state of Minnesota opts out of this Compact with respect to long-term care insurance products."

The question was taken on the adoption of the Lourey amendment to the Scheid amendment.

The roll was called, and there were yeas 25 and nays 37, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Langseth	Moua	Skoglund
Berglin	Foley	Lourey	Pappas	Solon
Betzold	Higgins	Marko	Pogemiller	Sparks
Chaudhary	Johnson, D.E.	Marty	Ranum	Stumpf
Clark	Kelley	Metzen	Rest	Wiger

Those who voted in the negative were:

Bachmann	Hann	Larson	Olson	Scheid
Bakk	Johnson, D.J.	LeClair	Ortman	Senjem
Belanger	Jungbauer	Limmer	Reiter	Skoe
Bonoff	Kierlin	McGinn	Robling	Tomassoni
Day	Kiscaden	Michel	Rosen	Vickerman
Fischbach	Koch	Murphy	Ruud	
Frederickson	Koering	Neuville	Sams	
Gerlach	Kubly	Nienow	Saxhaug	

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

Senator Kelley moved to amend the Scheid amendment to S.F. No. 3480 as follows:

Page 18, after line 9, insert:

"Sec. 6. [61A.66] INTERSTATE INSURANCE PRODUCT REGULATION COMPACT OPT OUT ADMINISTRATION.

Subdivision 1. Access to courts. The commissioner must opt out by regulation of any uniform standard that permits a product to deny a consumer's access to the courts to resolve a dispute related to the product. In addition to opting out, the commissioner must petition the commission for a stay of the effective date of the standard.

Subd. 2. Effect of opt out on prior product approval. (a) The commission's approval of a product pursuant to a uniform standard shall have no force and effect after the effective date of a legislative opt out by this state and that approval is formally rescinded in advance as permitted under article XIV of the compact.

(b) The commissioner shall adopt procedures for implementing the rescission of approval for products affected by paragraph (a).

Subd. 3. Deference by courts. A decision by the commissioner to opt out by regulation shall be given deference by the courts."

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

The question recurred on the Scheid amendment, as amended.

The roll was called, and there were yeas 53 and nays 11, as follows:

Those who voted in the affirmative were:

Bachmann	Gerlach	Koering	Nienow	Scheid
Bakk	Hann	Kubly	Olson	Senjem
Belanger	Higgins	Langseth	Ortman	Skoe
Berglin	Hottinger	Larson	Pappas	Solon
Bonoff	Johnson, D.E.	LeClair	Pogemiller	Sparks
Clark	Johnson, D.J.	Marko	Reiter	Stumpf
Day	Jungbauer	McGinn	Robling	Tomassoni
Dille	Kelley	Metzen	Rosen	Vickerman
Fischbach	Kierlin	Michel	Ruud	Wiger
Foley	Kiscaden	Moua	Sams	
Frederickson	Koch	Neuville	Saxhaug	

Those who voted in the negative were:

Anderson	Cohen	Lourey	Rest
Betzold	Dibble	Marty	Skoglund
Chaudhary	Limmer	Ranum	

The motion prevailed. So the Scheid amendment, as amended, was adopted.

Senator Scheid moved to amend S.F. No. 3480 as follows:

Page 7, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 2004, section 62A.3093, is amended to read:

62A.3093 COVERAGE FOR DIABETES.

Subdivision 1. Required coverage. A health plan, including a plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), must provide coverage for: (1) all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes; and (2) diabetes outpatient self-management training and education, including medical nutrition therapy, that is provided by a certified, registered, or licensed health care professional working in a program consistent with the national standards of diabetes self-management education as established by the American Diabetes Association. Coverage must include persons with gestational, type I or type II diabetes. Coverage required under this section is subject to the same deductible or coinsurance provisions applicable to the plan's hospital, medical

expense, medical equipment, or prescription drug benefits. A health carrier may not reduce or eliminate coverage due to this requirement.

Subd. 2. **Medicare Part D exception.** A health plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), is not subject to the requirements of subdivision 1, clause (1), with respect to equipment and supplies covered under the Medicare Part D Prescription Drug program, whether or not the covered person is enrolled in a Medicare Part D plan.

This subdivision does not apply to a health plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), that was in effect on December 31, 2005, if the covered person remains enrolled in the plan and does not enroll in a Medicare Part D plan.

EFFECTIVE DATE. This section is effective retroactive to January 1, 2006.

Sec. 11. Minnesota Statutes 2005 Supplement, section 62A.316, is amended to read:

62A.316 BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.

(a) The basic Medicare supplement plan must have a level of coverage that will provide:

(1) coverage for all of the Medicare Part A inpatient hospital coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare, after satisfying the Medicare Part A deductible;

(2) coverage for the daily co-payment amount of Medicare Part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the coinsurance amount, or in the case of outpatient department services paid under a prospective payment system, the co-payment amount, of Medicare eligible expenses under Medicare Part B regardless of hospital confinement, subject to the Medicare Part B deductible amount;

(4) 80 percent of the hospital and medical expenses and supplies incurred during travel outside the United States as a result of a medical emergency;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare Parts A and B, unless replaced in accordance with federal regulations;

(6) 100 percent of the cost of immunizations not otherwise covered under Part D of the Medicare program and routine screening procedures for cancer screening including mammograms and pap smears; and

(7) 80 percent of coverage for all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes not otherwise covered under Part D of the Medicare program. Coverage must include persons with gestational, type I, or type II diabetes. Coverage under this clause is subject to section 62A.3093, subdivision 2.

(b) Only the following optional benefit riders may be added to this plan:

(1) coverage for all of the Medicare Part A inpatient hospital deductible amount;

(2) a minimum of 80 percent of eligible medical expenses and supplies not covered by Medicare Part B, not to exceed any charge limitation established by the Medicare program or state law;

(3) coverage for all of the Medicare Part B annual deductible;

(4) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses. An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006;

(5) preventive medical care benefit coverage for the following preventative health services not covered by Medicare:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit shall not include payment for a procedure covered by Medicare;

(6) coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:

(i) For purposes of this benefit, the following definitions apply:

(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;

(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aid, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;

(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence;

(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;

(ii) Coverage requirements and limitations:

(A) at-home recovery services provided must be primarily services that assist in activities of daily living;

(B) the insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;

(C) coverage is limited to:

(I) no more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home care visits under a Medicare-approved home care plan of treatment;

(II) the actual charges for each visit up to a maximum reimbursement of \$40 per visit;

(III) \$1,600 per calendar year;

(IV) seven visits in any one week;

(V) care furnished on a visiting basis in the insured's home;

(VI) services provided by a care provider as defined in this section;

(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;

(iii) Coverage is excluded for:

(A) home care visits paid for by Medicare or other government programs; and

(B) care provided by family members, unpaid volunteers, or providers who are not care providers;

(7) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses to a maximum of \$1,200 paid by the issuer annually under this benefit. An issuer of Medicare supplement insurance policies that elects to offer this benefit rider shall also make available coverage that contains the rider specified in clause (4). An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006.

EFFECTIVE DATE. This section is effective retroactive to January 1, 2006."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Berglin moved to amend S.F. No. 3480 as follows:

Page 15, after line 34, insert:

"Sec. 23. Minnesota Statutes 2004, section 62S.05, is amended by adding a subdivision to read:

Subd. 4. Extension of limitation periods. The commissioner may extend the limitation periods set forth in subdivisions 1 and 2 as to specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 24. Minnesota Statutes 2004, section 62S.08, subdivision 3, is amended to read:

Subd. 3. **Mandatory format.** The following standard format outline of coverage must be used, unless otherwise specifically indicated:

COMPANY NAME
ADDRESS - CITY AND STATE
TELEPHONE NUMBER
LONG-TERM CARE INSURANCE
OUTLINE OF COVERAGE

Policy Number or Group Master Policy and Certificate Number

(Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.)

CAUTION: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions

is now, before a claim arises. If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address).

(1) This policy is (an individual policy of insurance) (a group policy) which was issued in the (indicate jurisdiction in which group policy was issued).

(2) PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY.

(3) THIS PLAN IS INTENDED TO BE A QUALIFIED LONG-TERM CARE INSURANCE CONTRACT AS DEFINED UNDER SECTION 7702(B)(b) OF THE INTERNAL REVENUE CODE OF 1986.

(4) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) (For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:)

(1) (Policies and certificates that are guaranteed renewable shall contain the following statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, (certificate) to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) (Policies and certificates that are noncancelable shall contain the following statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS NONCANCELABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, (company name) may increase your premium at that time for those additional benefits.

(b) (For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy.)

(c) (Describe waiver of premium provisions or state that there are not such provisions.)

(5) TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

(In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium and, if a right exists, describe clearly and concisely each circumstance under which the premium may change.)

(6) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) (Provide a brief description of the right to return – "free look" provision of the policy.)

(b) (Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.)

~~(5)~~ (7) THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) (For agents) neither (insert company name) nor its agents represent Medicare, the federal government, or any state government.

(b) (For direct response) (insert company name) is not representing Medicare, the federal government, or any state government.

~~(6)~~ (8) LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community, or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy (limitations), (waiting periods), and (coinsurance) requirements. (Modify this paragraph if the policy is not an indemnity policy.)

~~(7)~~ (9) BENEFITS PROVIDED BY THIS POLICY.

(a) (Covered services, related deductible(s), waiting periods, elimination periods, and benefit maximums.)

(b) (Institutional benefits, by skill level.)

(c) (Noninstitutional benefits, by skill level.)

(d) (Eligibility for payment of benefits.)

(Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.)

(Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria or screens must be explained.)

~~(8)~~ (10) LIMITATIONS AND EXCLUSIONS:

Describe:

(a) preexisting conditions;

(b) noneligible facilities/provider;

(c) noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) exclusions/exceptions; and

(e) limitations.

(This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph ~~(6)~~ (8).)

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

~~(9)~~ (11) RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. As applicable, indicate the following:

- (a) that the benefit level will not increase over time;
- (b) any automatic benefit adjustment provisions;
- (c) whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;
- (d) if there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations; and
- (e) whether there will be any additional premium charge imposed and how that is to be calculated.

~~(10)~~ (12) ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS. (State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically, describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.)

~~(11)~~ (13) PREMIUM.

- (a) State the total annual premium for the policy.
- (b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.

~~(12)~~ (14) ADDITIONAL FEATURES.

- (a) Indicate if medical underwriting is used.
- (b) Describe other important features.

(15) CONTACT THE STATE DEPARTMENT OF COMMERCE OR SENIOR LINKAGE LINE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 25. Minnesota Statutes 2004, section 62S.081, subdivision 4, is amended to read:

Subd. 4. **Forms.** An insurer shall use the forms in Appendices B (Personal Worksheet) and F (Potential Rate Increase Disclosure Form) of the Long-term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners to comply with the requirements of subdivisions 1 and 2.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 26. Minnesota Statutes 2004, section 62S.10, subdivision 2, is amended to read:

Subd. 2. **Contents.** The summary must include the following information:

- (1) an explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;
- (2) an illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime

benefits, if any, for each covered person; ~~and~~

(3) any exclusions, reductions, and limitations on benefits of long-term care; and

(4) a statement that any long-term care inflation protection option required by section 62S.23 is not available under this policy.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 27. Minnesota Statutes 2004, section 62S.13, is amended by adding a subdivision to read:

Subd. 6. **Death of insured.** In the event of the death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by section 61A.03, subdivision 1, paragraph (c). In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 28. Minnesota Statutes 2004, section 62S.14, subdivision 2, is amended to read:

Subd. 2. **Terms.** The terms "guaranteed renewable" and "noncancelable" may not be used in an individual long-term care insurance policy without further explanatory language that complies with the disclosure requirements of section 62S.20. The term "level premium" may only be used when the insurer does not have the right to change the premium.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 29. Minnesota Statutes 2004, section 62S.15, is amended to read:

62S.15 AUTHORIZED LIMITATIONS AND EXCLUSIONS.

No policy may be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition, or accident, except as follows:

- (1) preexisting conditions or diseases;
- (2) mental or nervous disorders; except that the exclusion or limitation of benefits on the basis of Alzheimer's disease is prohibited;
- (3) alcoholism and drug addiction;
- (4) illness, treatment, or medical condition arising out of war or act of war; participation in a felony, riot, or insurrection; service in the armed forces or auxiliary units; suicide, attempted suicide, or intentionally self-inflicted injury; or non-fare-paying aviation; ~~and~~
- (5) treatment provided in a government facility unless otherwise required by law, services for which benefits are available under Medicare or other government program except Medicaid, state or federal workers' compensation, employer's liability or occupational disease law, motor vehicle no-fault law; services provided by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance; and
- (6) expenses for services or items available or paid under another long-term care insurance or health insurance policy.

This subdivision does not prohibit exclusions and limitations by type of provider or territorial limitations.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 30. Minnesota Statutes 2004, section 62S.20, subdivision 1, is amended to read:

Subdivision 1. **Renewability.** (a) Individual long-term care insurance policies must contain a renewability provision that is appropriately captioned, appears on the first page of the policy, and clearly states the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed that the coverage is guaranteed renewable or noncancelable. This subdivision does not apply to policies which are part of or combined with life insurance policies which do not contain a renewability provision and under which the right to nonrenew is reserved solely to the policyholder.

(b) A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 31. Minnesota Statutes 2004, section 62S.24, subdivision 1, is amended to read:

Subdivision 1. **Required questions.** An application form must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing the following questions may be used. If a replacement policy is issued to a group as defined under section 62S.01, subdivision 15, clause (1), the following questions may be modified only to the extent necessary to elicit information about long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement:

(1) do you have another long-term care insurance policy or certificate in force (including health care service contract or health maintenance organization contract)?;

(2) did you have another long-term care insurance policy or certificate in force during the last 12 months?;

(i) if so, with which company?; and

(ii) if that policy lapsed, when did it lapse?; ~~and~~

(3) are you covered by Medicaid?; and

(4) do you intend to replace any of your medical or health insurance coverage with this policy (certificate)?

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 32. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

Subd. 1a. **Other health insurance policies sold by agent.** Agents shall list all other health insurance policies they have sold to the applicant that are still in force or were sold in the past five years and are no longer in force.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 33. Minnesota Statutes 2004, section 62S.24, subdivision 3, is amended to read:

Subd. 3. **Solicitations other than direct response.** After determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods or its agent, shall furnish the applicant, before issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of the notice must be retained by the applicant and an additional copy signed by the applicant

must be retained by the insurer. The required notice must be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by (company name) insurance company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (BROKER OR OTHER REPRESENTATIVE): (Use additional sheets, as necessary.)

I have reviewed your current medical health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(a) Health conditions which you presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

.....

(Signature of Agent, Broker, or Other Representative)

(Typed Name and Address of Agency or Broker)

The above "Notice to Applicant" was delivered to me on:

.....
(Date)

.....
(Applicant's Signature)

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 34. Minnesota Statutes 2004, section 62S.24, subdivision 4, is amended to read:

Subd. 4. **Direct response solicitations.** Insurers using direct response solicitation methods shall deliver a notice regarding replacement of long-term care coverage to the applicant upon issuance of the policy. The required notice must be provided in the following manner:

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT
AND SICKNESS OR LONG-TERM CARE INSURANCE**

(Insurance company's name and address)

**SAVE THIS NOTICE! IT MAY BE
IMPORTANT TO YOU IN THE FUTURE.**

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by (company name) insurance company.

Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

(a) Health conditions which you presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) (To be included only if the application is attached to the policy.)

If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (company name and address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

.....

(Company Name)

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 35. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

Subd. 7. Life insurance policies. Life insurance policies that accelerate benefits for long-term care shall comply with this section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of sections 61A.53 to 61A.60. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 36. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

Subd. 8. Exchange for long-term care partnership policy; addition of policy rider. (a) If authorized by federal law or a federal waiver is granted with respect to the long-term care partnership program referenced in section 256B.0571, issuers of long-term care policies may voluntarily exchange a current long-term care insurance policy for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, after the effective date of the state plan amendment implementing the partnership program in this state.

(b) If authorized by federal law or a federal waiver is granted with respect to the long-term care partnership program referenced in section 256B.0571 allowing an existing long-term care insurance policy to qualify as a partnership policy by addition of a policy rider, the issuer of the policy is authorized to add the rider to the policy after the effective date of the state plan amendment implementing the partnership program in this state.

(c) The commissioner, in cooperation with the commissioner of human services, shall pursue any federal law changes or waivers necessary to allow the implementation of paragraphs (a) and (b).

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 37. Minnesota Statutes 2004, section 62S.25, subdivision 6, is amended to read:

Subd. 6. Claims denied. Each insurer shall report annually by June 30 the number of claims denied for any reason during the reporting period for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition. For purposes of this subdivision, "claim" means a request for payment of benefits under an in-force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 38. Minnesota Statutes 2004, section 62S.25, is amended by adding a subdivision to read:

Subd. 7. Reports. Reports under this section shall be done on a statewide basis and filed with the commissioner. They shall include, at a minimum, the information in the format contained in Appendix E (Claim Denial Reporting Form) and in Appendix G (Replacement and Lapse Reporting Form) of the Long-Term Care Model Regulation adopted by the National Association of Insurance Commissioners.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 39. Minnesota Statutes 2004, section 62S.26, is amended to read:

62S.26 LOSS RATIO.

Subdivision 1. Minimum loss ratio. ~~(a)~~—The minimum loss ratio must be at least 60 percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, the commissioner shall give consideration to all relevant factors, including:

- (1) statistical credibility of incurred claims experience and earned premiums;
- (2) the period for which rates are computed to provide coverage;
- (3) experienced and projected trends;
- (4) concentration of experience within early policy duration;
- (5) expected claim fluctuation;
- (6) experience refunds, adjustments, or dividends;
- (7) renewability features;
- (8) all appropriate expense factors;
- (9) interest;
- (10) experimental nature of the coverage;
- (11) policy reserves;
- (12) mix of business by risk classification; and
- (13) product features such as long elimination periods, high deductibles, and high maximum limits.

Subd. 2. Life insurance policies. Subdivision 1 shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions:

- (1) the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
- (2) the portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of section 61A.24;
- (3) the policy meets the disclosure requirements of sections 62S.09, 62S.10, and 62S.11; and
- (4) an actuarial memorandum is filed with the commissioner that includes:
 - (i) a description of the basis on which the long-term care rates were determined;
 - (ii) a description of the basis for the reserves;
 - (iii) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
 - (iv) a description and a table of each actuarial assumption used. For expenses, an insurer must include percentage of premium dollars per policy and dollars per unit of benefits, if any;
 - (v) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) the estimated average annual premium per policy and the average issue age;

(vii) a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

Subd. 3. Nonapplication. ~~(b)~~ This section does not apply to policies or certificates that are subject to sections 62S.021, 62S.081, and 62S.265, and that comply with those sections.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 40. Minnesota Statutes 2004, section 62S.266, subdivision 2, is amended to read:

Subd. 2. Requirement. (a) An insurer must offer each prospective policyholder a nonforfeiture benefit in compliance with the following requirements:

(1) a policy or certificate offered with nonforfeiture benefits must have coverage elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer must be the benefit described in subdivision 5; and

(2) the offer must be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder.

(b) When a group long-term care insurance policy is issued, the offer required in paragraph (a) shall be made to the group policy holder. However, if the policy is issued as group long-term care insurance as defined in section 62S.01, subdivision 15, clause (4), other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 41. Minnesota Statutes 2004, section 62S.29, subdivision 1, is amended to read:

Subdivision 1. Requirements. An insurer or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(1) establish marketing procedures and agent training requirements to assure that a any marketing activities, including any comparison of policies by its agents or other producers, are fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy, the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.";

(4) provide copies of the disclosure forms required in section 62S.081, subdivision 4, to the applicant;

(5) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has long-term care insurance and the

types and amounts of the insurance;

~~(5)~~ (6) establish auditable procedures for verifying compliance with this subdivision; and

~~(6)~~ (7) if applicable, provide written notice to the prospective policyholder and certificate holder, at solicitation, that a senior insurance counseling program approved by the commissioner is available and the name, address, and telephone number of the program;

(8) use the terms "noncancelable" or "level premium" only when the policy or certificate conforms to section 62S.14; and

(9) provide an explanation of contingent benefit upon lapse provided for in section 62S.266.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 42. Minnesota Statutes 2004, section 62S.30, is amended to read:

62S.30 APPROPRIATENESS OF RECOMMENDED PURCHASE SUITABILITY.

~~In recommending the purchase or replacement of a long-term care insurance policy or certificate, an agent shall comply with section 60K.46, subdivision 4.~~

Subdivision 1. Standards. Every insurer or other entity marketing long-term care insurance shall:

(1) develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(2) train its agents in the use of its suitability standards; and

(3) maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

Subd. 2. Procedures. (a) To determine whether the applicant meets the standards developed by the insurer or other entity marketing long-term care insurance, the agent and insurer or other entity marketing long-term care insurance shall develop procedures that take the following into consideration:

(1) the ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(2) the applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet those goals or needs; and

(3) the values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(b) The insurer or other entity marketing long-term care insurance, and the agent, where an agent is involved, shall make reasonable efforts to obtain the information set forth in paragraph (a). The efforts shall include presentation to the applicant, at or prior to application, of the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the insurer or other entity marketing long-term care insurance shall contain, at a minimum, the information in the format contained in Appendix B of the Long-Term Care Model Regulation adopted by the National Association of Insurance Commissioners, in not less than 12-point type. The insurer or other entity marketing long-term care insurance may request the applicant to provide additional information to comply with its suitability standards. The insurer or other entity marketing long-term care insurance shall file a copy of its personal worksheet with the commissioner.

(c) A completed personal worksheet shall be returned to the insurer or other entity marketing long-term care insurance prior to consideration of the applicant for coverage, except the personal

worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. The sale or dissemination by the insurer or other entity marketing long-term care insurance, or the agent, of information obtained through the personal worksheet is prohibited.

(d) The insurer or other entity marketing long-term care insurance shall use the suitability standards it has developed under this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate. Agents shall use the suitability standards developed by the insurer or other entity marketing long-term care insurance in marketing long-term care insurance.

(e) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in not less than 12-point type.

(f) If the insurer or other entity marketing long-term care insurance determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the insurer or other entity marketing long-term care insurance may reject the application. In the alternative, the insurer or other entity marketing long-term care insurance shall send the applicant a letter similar to Appendix D of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners. However, if the applicant has declined to provide financial information, the insurer or other entity marketing long-term care insurance may use some other method to verify the applicant's intent. The applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

Subd. 3. **Reports.** The insurer or other entity marketing long-term care insurance shall report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

Subd. 4. **Application.** This section shall not apply to life insurance policies that accelerate benefits for long-term care.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 43. [62S.315] PRODUCER TRAINING.

The commissioner shall approve insurer and producer training requirements according to the NAIC Long-Term Care Insurance Model Act provisions. The commissioner of human services shall provide technical assistance and information to the commissioner according to Public Law 109-171, section 6021.

EFFECTIVE DATE. This section is effective July 1, 2006."

Page 28, after line 33, insert:

"Sec. 58. Minnesota Statutes 2005 Supplement, section 256B.0571, is amended to read:

256B.0571 LONG-TERM CARE PARTNERSHIP PROGRAM.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

~~Subd. 2. **Home care service.** "Home care service" means care described in section 144A.43.~~

Subd. 3. **Long-term care insurance.** "Long-term care insurance" means a policy described in section 62S.01.

Subd. 4. **Medical assistance.** "Medical assistance" means the program of medical assistance established under section 256B.01.

~~Subd. 5. **Nursing home.** "Nursing home" means a nursing home as described in section 144A.01.~~

Subd. 6. **Partnership policy.** "Partnership policy" means a long-term care insurance policy that meets the requirements under subdivision 10 ~~or 11, regardless of when the policy and~~ was first issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota.

Subd. 7. **Partnership program.** "Partnership program" means the Minnesota partnership for long-term care program established under this section.

Subd. 7a. **Protected assets.** "Protected assets" means assets or proceeds of assets that are protected from recovery under subdivisions 13 and 15.

Subd. 8. **Program established.** (a) The commissioner, in cooperation with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in this paragraph is eligible to participate in the partnership program. The individual must:

(1) be a Minnesota resident at the time coverage first became effective under the partnership policy;

~~(2) purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of Laws 2005, First Special Session chapter 4, article 7, section 5, and maintain the partnership policy in effect throughout the period of participation in the partnership program be a beneficiary of a partnership policy that (i) is issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota, or (ii) qualifies as a partnership policy under the provisions of subdivision 8a; and~~

~~(3) exhaust the minimum~~ have exhausted all of the benefits under the partnership policy as described in this section. Benefits received under a long-term care insurance policy before ~~the effective date of Laws 2005, First Special Session chapter 4, article 7, section 5~~ July 1, 2006, do not count toward the exhaustion of benefits required in this subdivision.

Subd. 8a. **Exchange for long-term care partnership policy; addition of policy rider.** (a) If authorized by federal law or if federal approval is granted with respect to the partnership program established in this section, a long-term care insurance policy that was issued before the effective date of the state plan amendment implementing the partnership program in Minnesota that was exchanged after the effective date of the state plan amendment for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, qualifies as a long-term care partnership policy under this section, unless the policy is paying benefits on the date the policy is exchanged.

(b) If authorized by federal law or if federal approval is granted with respect to the partnership program established in this section, a long-term care insurance policy that was issued before the effective date of the state plan amendment implementing the partnership program in Minnesota that has a rider added after the effective date of the state plan amendment that meets the requirements of Public Law 109-171, section 6021, qualifies as a long-term care partnership policy under this section, unless the policy is paying benefits on the date the rider is added.

Subd. 9. **Medical assistance eligibility.** (a) ~~Upon application of~~ for medical assistance program payment of long-term care services by an individual who meets the requirements described in subdivision 8, the commissioner shall determine the individual's eligibility for medical assistance according to paragraphs (b) and (e) to (i).

~~(b) After disregarding financial determining assets exempted under medical assistance eligibility~~

requirements subject to the asset limit under section 256B.056, subdivision 3 or 3c, or 256B.057, subdivision 9 or 10, the commissioner shall disregard an additional amount of financial assets equal allow the individual to designate assets to be protected from recovery under subdivisions 13 and 15 up to the dollar amount of coverage the benefits utilized under the partnership policy. Designated assets shall be disregarded for purposes of determining eligibility for payment of long-term care services.

(c) The commissioner shall consider the individual's income according to medical assistance eligibility requirements. The individual shall identify the designated assets and the full fair market value of those assets and designate them as assets to be protected at the time of initial application for medical assistance. The full fair market value of real property or interests in real property shall be based on the most recent full assessed value for property tax purposes for the real property, unless the individual provides a complete professional appraisal by a licensed appraiser to establish the full fair market value. The extent of a life estate in real property shall be determined using the life estate table in the health care program's manual. Ownership of any asset in joint tenancy shall be treated as ownership as tenants in common for purposes of its designation as a disregarded asset. The unprotected value of any protected asset is subject to estate recovery according to subdivisions 13 and 15.

(d) The right to designate assets to be protected is personal to the individual and ends when the individual dies, except as otherwise provided in subdivisions 13 and 15. It does not include the increase in the value of the protected asset and the income, dividends, or profits from the asset. It may be exercised by the individual or by anyone with the legal authority to do so on the individual's behalf. It shall not be sold, assigned, transferred, or given away.

(e) If the dollar amount of the benefits utilized under a partnership policy is greater than the full fair market value of all assets protected at the time of the application for medical assistance long-term care services, the individual may designate additional assets that become available during the individual's lifetime for protection under this section. The individual must make the designation in writing to the county agency no later than the last date on which the individual must report a change in circumstances to the county agency, as provided for under the medical assistance program. Any excess used for this purpose shall not be available to the individual's estate to protect assets in the estate from recovery under section 256B.15 or 524.3-1202, or otherwise.

(f) This section applies only to estate recovery under United States Code, title 42, section 1396p, subsections (a) and (b), and does not apply to recovery authorized by other provisions of federal law, including, but not limited to, recovery from trusts under United States Code, title 42, section 1396p, subsection (d)(4)(A) and (C), or to recovery from annuities, or similar legal instruments, subject to section 6012, subsections (a) and (b), of the Deficit Reduction Act of 2005, Public Law 109-171.

(g) An individual's protected assets owned by the individual's spouse who applies for payment of medical assistance long-term care services shall not be protected assets or disregarded for purposes of eligibility of the individual's spouse solely because they were protected assets of the individual.

(h) Assets designated under this subdivision shall not be subject to penalty under section 256B.0595.

(i) The commissioner shall otherwise determine the individual's eligibility for payment of long-term care services according to medical assistance eligibility requirements.

Subd. 10. Dollar-for-dollar asset protection policies Long-term care partnership policy inflation protection. ~~(a) A dollar for dollar asset protection policy must meet all of the requirements in paragraphs (b) to (e).~~

~~(b) The policy must satisfy the requirements of chapter 62S.~~

~~(c) The policy must offer an elimination period of not more than 180 days for an adjusted premium.~~

~~(d) The policy must satisfy the requirements established by the commissioner of human services under subdivision 14.~~

~~(e) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home care, with inflation protection provided in the policy as described in section 62S.23, subdivision 1, clause (1). These minimum daily benefit amounts shall be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting minimum requirements that a policy must meet in future years in order to initially qualify as an approved policy under this subdivision. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar. A long-term care partnership policy must provide the inflation protection described in this subdivision. If the policy is sold to an individual who:~~

~~(1) has not attained age 61 as of the date of purchase, the policy must provide compound annual inflation protection;~~

~~(2) has attained age 61, but has not attained age 76 as of such date, the policy must provide some level of inflation protection; and~~

~~(3) has attained age 76 as of such date, the policy may, but is not required to, provide some level of inflation protection.~~

~~Subd. 11. **Total asset protection policies.** (a) A total asset protection policy must meet all of the requirements in subdivision 10, paragraphs (b) to (d), and this subdivision.~~

~~(b) Minimum coverage shall be for a period of not less than three years and for a dollar amount equal to 36 months of nursing home care at the minimum daily benefit rate determined and adjusted under paragraph (c).~~

~~(c) Minimum daily benefits shall be \$150 for nursing home care or \$75 for home care, with inflation protection provided in the policy as described in section 62S.23, subdivision 1, clause (1). These minimum daily benefit amounts shall also be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting minimum requirements that a policy must meet in future years in order to initially qualify as an approved policy under this subdivision. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.~~

~~(d) The policy must cover all of the following services:~~

~~(1) nursing home stay;~~

~~(2) home care service; and~~

~~(3) care management.~~

~~Subd. 12. **Compliance with federal law.** An issuer of a partnership policy must comply with any federal law authorizing partnership policies in Minnesota Public Law 109-171, section 6021, including any federal regulations, as amended, adopted under that law. This subdivision does not require compliance with any provision of this federal law until the date upon which the law requires compliance with the provision. The commissioner has authority to enforce this subdivision.~~

~~Subd. 13. **Limitations on estate recovery.** (a) For an individual who exhausts the minimum benefits of a dollar for dollar asset protection policy under subdivision 10, and is determined eligible for medical assistance under subdivision 9, the state shall limit recovery under the provisions of section 256B.15 against the estate of the individual or individual's spouse for medical assistance benefits received by that individual to an amount that exceeds the dollar amount of coverage utilized under the partnership policy. Protected assets of the individual shall not be subject to recovery under section 256B.15 or section 524.3-1201 for medical assistance or alternative care paid on behalf of the individual. Protected assets of the individual in the estate of the individual's surviving spouse shall~~

not be liable to pay a claim for recovery of medical assistance paid for the predeceased individual that is filed in the estate of the surviving spouse under section 256B.15. Protected assets of the individual shall not be protected assets in the surviving spouse's estate by reason of the preceding sentence and shall be subject to recovery under section 256B.15 or 524.3-1201 for medical assistance paid on behalf of the surviving spouse.

(b) For an individual who exhausts the minimum benefits of a total asset protection policy under subdivision 11, and is determined eligible for medical assistance under subdivision 9, the state shall not seek recovery under the provisions of section 256B.15 against the estate of the individual or individual's spouse for medical assistance benefits received by that individual. The personal representative may protect the full fair market value of an individual's unprotected assets in the individual's estate in an amount equal to the unused amount of asset protection the individual had on the date of death. The personal representative shall apply the asset protection so that the full fair market value of any unprotected asset in the estate is protected. When or if the asset protection available to the personal representative is or becomes less than the full fair market value of any remaining unprotected asset, it shall be applied to partially protect one unprotected asset.

(c) The asset protection described in paragraph (a) terminates with respect to an asset includable in the individual's estate under chapter 524 or section 256B.15:

(1) when the estate distributes the asset; or

(2) if the estate of the individual has not been probated within one year from the date of death.

(d) If an individual owns a protected asset on the date of death and the estate is opened for probate more than one year after death, the state or a county agency may file and collect claims in the estate under section 256B.15, and no statute of limitations in chapter 524 that would otherwise limit or bar the claim shall apply.

(e) Except as otherwise provided, nothing in this section shall limit or prevent recovery of medical assistance.

~~Subd. 14. **Implementation.** (a) If federal law is amended or a federal waiver is granted to permit implementation of this section, the commissioner, in consultation with the commissioner of commerce, may alter the requirements of subdivisions 10 and 11, and may establish additional requirements for approved policies in order to conform with federal law or waiver authority. In establishing these requirements, the commissioner shall seek to maximize purchase of qualifying policies by Minnesota residents while controlling medical assistance costs.~~

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

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

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

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

(a) The commissioner, in cooperation with the commissioner of commerce, may alter the requirements of this section so as to be in compliance with forthcoming requirements of the Department of Health and Human Services and the National Association of Insurance Commissioners necessary to implement the long-term care partnership program requirements of Public Law 109-171, section 6021.

(b) The commissioner shall submit a state plan amendment to the federal government to implement the long-term care partnership program in accordance with this section.

Subd. 15. **Limitation on liens.** (a) An individual's interest in real property shall not be subject to a medical assistance lien or a notice of potential claim while and to the extent it is protected under subdivision 9.

(b) Medical assistance liens or liens arising under notices of potential claims against an individual's interests in real property in the individual's estate that are designated as protected under subdivision 13, paragraph (b), shall be released to the extent of the dollar value of the protection applied to the interest.

(c) If an interest in real property is protected from a lien for recovery of medical assistance paid on behalf of the individual under paragraph (a) or (b), no lien for recovery of medical assistance paid on behalf of that individual shall be filed against the protected interest in real property after it is distributed to the individual's heirs or devisees.

Subd. 16. **Burden of proof.** Any individual or the personal representative of the individual's estate who asserts that an asset is a disregarded or protected asset under this section in connection with any determination of eligibility for benefits under the medical assistance program or any appeal, case, controversy, or other proceedings, shall have the initial burden of:

(1) documenting and proving by clear and convincing evidence that the asset or source of funds for the asset in question was designated as disregarded or protected;

(2) tracing the asset and the proceeds of the asset from that time forward; and

(3) documenting that the asset or proceeds of the asset remained disregarded or protected at all relevant times.

EFFECTIVE DATE. This section is effective July 1, 2006."

Page 28, delete section 37 and insert:

"Sec. 59. **REPEALER.**

(a) Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, and 11, are repealed.

(b) Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; and 2781.0600, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2006."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Marty moved to amend S.F. No. 3480 as follows:

Page 28, after line 33, insert:

"Sec. 37. **[604.17] BAD FAITH INSURANCE PRACTICES.**

Subdivision 1. **Prohibited conduct.** (a) An insurer shall not act in bad faith in connection with any matter involving a claim under an insurance policy.

(b) Insurer bad faith includes insurer delay or denial of benefits offered or paid without an objectively reasonable basis for its offer, delay, or denial. An insurer also acts in bad faith if the

insurer engages in any fraud, false pretense, false promise, misrepresentation, misleading statement, or deceptive practice that others rely on in connection with any matter involving a claim under an insurance policy.

(c) For purposes of this section:

(1) "insurance policy" means an insurance policy or contract issued, executed, renewed, maintained, or delivered in this state, other than a workers' compensation insurance policy or contract; and

(2) "insurer" means an individual, corporation, association, partnership, or other legal entity that issues, executes, renews, maintains, or delivers an insurance policy in this state.

Subd. 2. Penalties and remedies. A person violating subdivision 1 is acting against the public interest and is liable for costs, damages, and reasonable attorney fees.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to causes of action commenced on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Michel questioned whether the amendment was germane.

The President ruled that the amendment was germane.

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

The roll was called, and there were yeas 28 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Kubly	Moua	Ranum
Berglin	Foley	Limmer	Neuville	Skoglund
Betzold	Higgins	Lourey	Nienow	Solon
Chaudhary	Hottinger	Marko	Ortman	Stumpf
Cohen	Johnson, D.E.	Marty	Pappas	
Dibble	Kelley	Metzen	Pogemiller	

Those who voted in the negative were:

Bachmann	Gerlach	Langseth	Robling	Sparks
Bakk	Hann	Larson	Rosen	Tomassoni
Belanger	Johnson, D.J.	LeClair	Ruud	Vickerman
Bonoff	Jungbauer	McGinn	Sams	Wiger
Clark	Kierlin	Michel	Saxhaug	
Day	Kiscaden	Olson	Scheid	
Fischbach	Koch	Reiter	Senjem	
Frederickson	Koering	Rest	Skoe	

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

Senator Kelley moved to amend S.F. No. 3480 as follows:

Page 28, after line 33, insert:

"Sec. 37. Minnesota Statutes 2004, section 123A.21, is amended by adding a subdivision to read:

Subd. 12. Health Coverage Pool Comparison Shopping. (a) Service cooperatives must permit school districts and other political subdivisions participating in a service cooperative health coverage pool to solicit bids and other information from competing sources of health coverage at any time other than within five months prior to the end of a master agreement.

(b) A service cooperative must not impose a fine or other penalty against an enrolled entity for soliciting a bid or other information during the allowed period. The service cooperative may prohibit the entity from participating in service cooperative coverage for a period of up to one year, if the entity leaves the service cooperative pool and obtains other health coverage.

(c) A service cooperative must provide each enrolled entity with the entity's monthly claims data. This paragraph applies notwithstanding section 13.203."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Solon moved to amend S.F. No. 3480 as follows:

Page 15, after line 34, insert:

"Sec. 23. **[62Q.80] COMMUNITY-BASED HEALTH CARE COVERAGE PROGRAM.**

Subdivision 1. **Scope.** (a) A community-based health care initiative may develop and operate a community-based health care coverage program that offers to eligible individuals and their dependents the option of purchasing through their employer health care coverage on a fixed prepaid basis without meeting the requirements of chapter 60A, 62A, 62C, 62D, 62Q, or 62T, or any other law or rule that applies to entities licensed under these chapters.

(b) The initiative shall establish health outcomes to be achieved through the program and performance measurements in order to determine whether these outcomes have been met. The outcomes must include, but are not limited to:

(1) a reduction in uncompensated care provided by providers participating in the community-based health network;

(2) an increase in the delivery of preventive health care services; and

(3) health improvement for enrollees with chronic health conditions through the management of these conditions.

In establishing performance measurements, the initiative shall use measures that are consistent with measures published by nonprofit Minnesota or national organizations that produce and disseminate health care quality measures.

(c) Any program established under this section shall not constitute a financial liability for the state, in that any financial risk involved in the operation or termination of the program shall be borne by the community-based initiative and the participating health care providers.

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Community-based" means located in or primarily relating to the community of geographically contiguous political subdivisions, as determined by the board of a community-based health initiative that is served by the community-based health care coverage program.

(b) "Community-based health care coverage program" or "program" means a program administered by a community-based health initiative that provides health care services through provider members of a community-based health network or combination of networks to eligible individuals and their dependents who are enrolled in the program.

(c) "Community-based health initiative" means a nonprofit corporation that is governed by a board that has at least 80 percent of its members residing in the community and includes representatives of the participating network providers and employers.

(d) "Community-based health network" means a contract-based network of health care providers organized by the community-based health initiative to provide or support the delivery of health care services to enrollees of the community-based health care coverage program on a risk-sharing or nonrisk-sharing basis.

(e) "Dependent" means an eligible employee's spouse or unmarried child who is under the age of 19 years.

Subd. 3. Approval. (a) Prior to the operation of a community-based health care coverage program, a community-based health initiative shall submit to the commissioner of health for approval the community-based health care coverage program developed by the initiative. The commissioner shall only approve a program that has been awarded a community access program grant from the United States Department of Health and Human Services. The commissioner shall ensure that the program meets the federal grant requirements and any requirements described in this section and is actuarially sound based on a review of appropriate records and methods utilized by the community-based health initiative in establishing premium rates for the community-based health care coverage program.

(b) Prior to approval, the commissioner shall also ensure that:

(1) the benefits offered comply with subdivision 8 and that there are adequate numbers of health care providers participating in the community-based health network to deliver the benefits offered under the program;

(2) the activities of the program are limited to activities that are exempt under this section or otherwise from regulation by the commissioner of commerce;

(3) the complaint resolution process meets the requirements of subdivision 10; and

(4) the data privacy policies and procedures comply with state and federal law.

Subd. 4. Establishment. (a) The initiative shall establish and operate upon approval by the commissioner of health a community-based health care coverage program. The operational structure established by the initiative shall include, but is not limited to:

(1) establishing a process for enrolling eligible individuals and their dependents;

(2) collecting and coordinating premiums from enrollees and employers of enrollees;

(3) providing payment to participating providers;

(4) establishing a benefit set according to subdivision 8 and establishing premium rates and cost-sharing requirements;

(5) creating incentives to encourage primary care and wellness services; and

(6) initiating disease management services, as appropriate.

(b) The payments collected under paragraph (a), clause (2), may be used to capture available federal funds.

Subd. 5. Qualifying employees. To be eligible for the community-based health care coverage program, an individual must:

(1) reside in or work within the designated community-based geographic area served by the program;

(2) be employed by a qualifying employer or be an employee's dependent;

(3) not be enrolled in or have currently available health coverage; and

(4) not be enrolled in medical assistance, general assistance medical care, MinnesotaCare, or Medicare.

Subd. 6. Qualifying employers. (a) To qualify for participation in the community-based health care coverage program, an employer must:

(1) employ at least one but no more than 50 employees at the time of initial enrollment in the program;

(2) pay its employees a median wage of \$12.50 per hour or less; and

(3) not have offered employer-subsidized health coverage to its employees for at least 12 months prior to the initial enrollment in the program. For purposes of this section, "employer-subsidized health coverage" means health care coverage for which the employer pays at least 50 percent of the cost of coverage for the employee.

(b) To participate in the program, a qualifying employer agrees to:

(1) offer health care coverage through the program to all eligible employees and their dependents regardless of health status;

(2) participate in the program for an initial term of at least one year;

(3) pay a percentage of the premium established by the initiative for the employee; and

(4) provide the initiative with any employee information deemed necessary by the initiative to determine eligibility and premium payments.

Subd. 7. Participating providers. Any health care provider participating in the community-based health network must accept as payment in full the payment rate established by the initiative and may not charge to or collect from an enrollee any amount in excess of this amount for any service covered under the program.

Subd. 8. Coverage. (a) The initiative shall establish the health care benefits offered through the community-based health care coverage program. The benefits established shall include, at a minimum:

(1) child health supervision services up to age 18, as defined under section 62A.047; and

(2) preventive services, including:

(i) health education and wellness services;

(ii) health supervision, evaluation, and follow-up;

(iii) immunizations; and

(iv) early disease detection.

(b) Coverage of health care services offered by the program may be limited to participating health care providers or health networks. All services covered under the program must be services that are offered within the scope of practice of the participating health care providers.

(c) The initiative may establish cost-sharing requirements. Any co-payment or deductible provisions established may not discriminate on the basis of age, sex, race, disability, economic status, or length of enrollment in the program.

(d) If the initiative amends or alters the benefits offered through the program from the initial offering, the initiative must notify the commissioner of health and all enrollees of the benefit change.

Subd. 9. Enrollee information. (a) The initiative must provide an individual or family who enrolls in the program a clear and concise written statement that includes the following information:

- (1) health care services that are provided under the program;
- (2) any exclusions or limitations on the health care services offered, including any cost-sharing arrangements or prior authorization requirements;
- (3) a list of where the health care services can be obtained and that all health care services must be provided by or through a participating health care provider or community-based health network;
- (4) a description of the program's complaint resolution process, including how to submit a complaint; how to file a complaint with the commissioner of health; and how to obtain an external review of any adverse decisions as provided under subdivision 10;
- (5) the conditions under which the program or coverage under the program may be canceled or terminated; and
- (6) a precise statement specifying that this program is not an insurance product and, as such, is exempt from state regulation of insurance products.

(b) The commissioner of health must approve a copy of the written statement prior to the operation of the program.

Subd. 10. Complaint resolution process. (a) The initiative must establish a complaint resolution process. The process must make reasonable efforts to resolve complaints and to inform complainants in writing of the initiative's decision within 60 days of receiving the complaint. Any decision that is adverse to the enrollee shall include a description of the right to an external review as provided in paragraph (c) and how to exercise this right.

(b) The initiative must report any complaint that is not resolved within 60 days to the commissioner of health.

(c) The initiative must include in the complaint resolution process the ability of an enrollee to pursue the external review process provided under section 62Q.73 with any decision rendered under this external review process binding on the initiative.

Subd. 11. Data privacy. The initiative shall establish data privacy policies and procedures for the program that comply with state and federal data privacy laws.

Subd. 12. Limitations on enrollment. (a) The initiative may limit enrollment in the program. If enrollment is limited, a waiting list must be established.

(b) The initiative shall not restrict or deny enrollment in the program except for nonpayment of premiums, fraud or misrepresentation, or as otherwise permitted under this section.

(c) The initiative may require a certain percentage of participation from eligible employees of a qualifying employer before coverage can be offered through the program.

Subd. 13. Report. (a) The initiative shall submit quarterly status reports to the commissioner of health on January 15, April 15, July 15, and October 15 of each year, with the first report due January 15, 2007. The status report shall include:

- (1) the financial status of the program, including the premium rates, cost per member per month, claims paid out, premiums received, and administrative expenses;
- (2) a description of the health care benefits offered and the services utilized;
- (3) the number of employers participating, the number of employees and dependents covered under the program, and the number of health care providers participating;
- (4) a description of the health outcomes to be achieved by the program and a status report on the performance measurements to be used and collected; and

(5) any other information requested by the commissioner of health or commerce or the legislature.

(b) The initiative shall contract with an independent entity to conduct an evaluation of the program to be submitted to the commissioners of health and commerce and the legislature by January 15, 2009. The evaluation shall include:

(1) an analysis of the health outcomes established by the initiative and the performance measurements to determine whether the outcomes are being achieved;

(2) an analysis of the financial status of the program, including the claims to premiums loss ratio and utilization and cost experience;

(3) the demographics of the enrollees, including their age, gender, family income, and the number of dependents;

(4) the number of employers and employees who have been denied access to the program and the basis for the denial;

(5) specific analysis on enrollees who have aggregate medical claims totaling over \$5,000 per year, including data on the enrollee's main diagnosis and whether all the medical claims were covered by the program;

(6) number of enrollees referred to state public assistance programs;

(7) a comparison of employer-subsidized health coverage provided in a comparable geographic area to the designated community-based geographic area served by the program, including, to the extent available:

(i) the difference in the number of employers with 50 or fewer employees offering employer-subsidized health coverage;

(ii) the difference in uncompensated care being provided in each area; and

(iii) a comparison of health care outcomes and measurements established by the initiative; and

(8) any other information requested by the commissioner of health or commerce.

Subd. 14. **Sunset.** This section expires December 31, 2011."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Koering moved to amend S.F. No. 3480 as follows:

Page 15, after line 34, insert:

"Sec. 23. Minnesota Statutes 2004, section 62S.265, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** ~~(a) Except as provided in paragraph (b), This section applies to any long-term care policy or certificate issued in this state on or after January 1, 2002, under this chapter or sections 62A.46 to 62A.56.~~

~~(b) For certificates issued on or after July 1, 2001, under a group long-term care insurance policy as defined in section 62S.01, subdivision 15, issued under this chapter, that was in force on July 1, 2001, this section applies on the policy anniversary following June 30, 2002.~~

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 Hottinger moved to amend S.F. No. 3480 as follows:

Page 15, delete section 22

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Betzold moved to amend S.F. No. 3480 as follows:

Page 9, after line 31, insert:

"Sec. 13. **[62A.662] SCHOOL EMPLOYEE INSURANCE PLAN.**

Subdivision 1. Definitions. For purposes of this section:

(1) "eligible employee" means a person who is insurance eligible under a collective bargaining agreement or under the personnel policy of an eligible employer; and

(2) "eligible employer" means a school district as defined in section 120A.05; a service cooperative as defined in section 123A.21; an intermediate district as defined in section 136D.01; a cooperative center for vocational education as defined in section 123A.22; a regional management information center as defined in section 123A.23; an education unit organized under section 471.59; or a charter school organized under section 124D.10.

Subd. 2. Creation of board. (a) The Minnesota School Employee Insurance Board is created as a public corporation subject to the provisions of chapter 317A, except as otherwise provided in this section. As provided in section 15.082, the state is not liable for obligations of this public corporation.

(b) The board shall create and administer the Minnesota School Employee Insurance Pool as described in this section.

(c) Insurance plans and offerings must be effective July 1, 2009.

(d) If the board does not offer coverage by December 15, 2010, the board expires and this section expires on that date.

Subd. 3. Board of directors. (a) The School Employee Insurance Board consists of:

(1) seven members representing exclusive representatives of eligible employees, appointed by exclusive representatives, as provided in paragraph (b); and

(2) seven members representing eligible employers, appointed by the Minnesota School Boards Association.

(b) The seven members of the board who represent statewide affiliates of exclusive representatives of eligible employees are appointed as follows: four members appointed by Education Minnesota and one member each appointed by the Service Employees International Union, the Minnesota School Employees Association, and American Federation of State, County, and Municipal Employees.

(c) Appointing authorities must make their initial appointments no later than August 1, 2006, by filing a notice of the appointment with the commissioner of commerce. Notices of subsequent

appointments must be filed with the board. An entity entitled to appoint a board member may replace the board member at any time.

(d) Board members are eligible for compensation and expense reimbursement under section 15.0575, subdivision 3.

(e) The board must arrange for one or more methods of dispute resolution so as to minimize the possibility of deadlocks.

(f) The board shall establish governance requirements, including staggered terms, term limits, quorum, a plan of operation, and audit provisions.

Subd. 4. Design and nature of plan. (a) Health coverage offered through the Minnesota School Employee Insurance Pool shall be made available by the board to all eligible employees of eligible employers, as defined in subdivision 1.

(b) If an eligible employer provides health coverage or money to purchase health coverage to eligible employees, the coverage must be provided or purchased only through the health plans offered by the board.

(c) Nothing in this section affects the right of each eligible employer to determine, through collective bargaining under the public employer labor relations act:

(1) the employer's eligibility requirements regarding the terms and conditions under which employees, dependents, retirees, and other persons are eligible for health coverage from the employer;

(2) how much of the premium charged for the insurance will be paid by the employer and how much will be paid by the eligible person; and

(3) which health plan or plans offered by the board will be made available by the eligible employer.

(d) The board must initially offer at least six health plans. One plan must provide coverage without a deductible and without other enrollee cost-sharing other than reasonable co-payments for nonpreventive care. One plan must be a high deductible health plan that qualifies under federal law for use with a health savings account. The other four plans must have levels of enrollee cost-sharing that are between the two plans just described. The board may establish more than one tier of premium rates for any specific plan. Plans and premium rates may vary across geographic regions established by the board. The health plans must comply with chapters 62A, 62J, 62M, and 62Q, and must provide the optimal combination of coverage, cost, choice, and stability in the judgment of the board. All health plans offered must be approved by the commissioner of commerce. The board shall investigate the feasibility of offering coverage through more than one health plan company or other network of health care providers.

(e) The board must include claims reserves, stabilization reserves, reinsurance, and other features that, in the judgment of the board, will result in long-term stability and solvency of the health plans offered.

(f) The board may determine whether the health plans should be fully insured through a health carrier licensed in this state, self-insured, or a combination of those two alternatives.

(g) The health plans must include disease management and consumer education, including wellness programs and measures encouraging the wise use of health coverage, to the extent determined to be appropriate by the board.

(h) Upon request of the board, health plans that are providing or have provided coverage to employees of eligible employers within two years before the effective date of this section, shall provide to the board at no charge nonidentifiable aggregate claims data for that coverage. The

information must include data relating to employee group benefit sets, demographics, and claims experience. Notwithstanding section 13.203, Minnesota service cooperatives must also comply with this paragraph.

(i) Effective July 1, 2009, a contract entered into between an eligible employer and an eligible employee or the exclusive representative of an eligible employee may not contain provisions that establish cash payment in lieu of health insurance to an eligible employee if the employee is not receiving the payment on or before June 30, 2009. Nothing in this section prevents an eligible employee who otherwise qualifies for payment of cash in lieu of insurance on June 30, 2009, from continuing to receive this payment.

(j) All premiums paid for health coverage provided by the board must be used by the board solely for the cost of the operation of the board and the benefit of eligible employees and eligible employers in connection with the health coverage offered by the board.

Subd. 5. MCHA membership and assessments. The board is a contributing member of the Minnesota Comprehensive Health Association and must pay assessments made by the association on its premium revenues, as provided in section 62E.11, subdivision 5, paragraph (b).

Subd. 6. Report. The board shall report to the legislature by January 15, 2009, on a final design for the pool that complies with subdivision 4 and on governance requirements for the board, including staggered terms, term limits, quorum, and a plan of operation and audit provisions. The report must include any legislative changes necessary to ensure conformance with chapters 62A, 62J, 62M, and 62Q.

Subd. 7. Progress dependent upon funding. The board shall carry out its obligations to the extent permitted by financial and other resources available to the board for that purpose. The board may seek and accept gifts and grants.

Subd. 8. Periodic evaluation. (a) Beginning January 15, 2011, and for the next two years, the board must submit an annual report to the commissioner of commerce and the legislature, in compliance with sections 3.195 and 3.197, summarizing and evaluating the performance of the pool during the previous year of operation.

(b) Beginning in 2013 and in each odd-numbered year thereafter, the board must submit to the legislature a biennial report summarizing and evaluating the performance of the pool during the preceding two fiscal years.

EFFECTIVE DATE. This section is effective July 1, 2006."

Page 10, after line 21, insert:

"Sec. 16. Minnesota Statutes 2004, section 62E.02, subdivision 23, is amended to read:

Subd. 23. Contributing member. "Contributing member" means those companies regulated under chapter 62A and offering, selling, issuing, or renewing policies or contracts of accident and health insurance; health maintenance organizations regulated under chapter 62D; nonprofit health service plan corporations regulated under chapter 62C; community integrated service networks regulated under chapter 62N; fraternal benefit societies regulated under chapter 64B; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; and joint self-insurance plans regulated under chapter 62H; and the Minnesota School Employee Insurance Board created under section 62A.662. For the purposes of determining liability of contributing members pursuant to section 62E.11 payments received from or on behalf of Minnesota residents for coverage by a health maintenance organization or a community integrated service network, or the Minnesota School Employee Insurance Board shall be considered to be accident and health insurance premiums.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 17. Minnesota Statutes 2004, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. **Creation; tax exemption.** There is established a Comprehensive Health Association to promote the public health and welfare of the state of Minnesota with membership consisting of all insurers; self-insurers; fraternal; joint self-insurance plans regulated under chapter 62H; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; the Minnesota School Employee Insurance Board created under section 62A.662; health maintenance organizations; and community integrated service networks licensed or authorized to do business in this state. The Comprehensive Health Association is exempt from the taxes imposed under chapter 297I and any other laws of this state and all property owned by the association is exempt from taxation.

EFFECTIVE DATE. This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 62E.11, subdivision 5, is amended to read:

Subd. 5. **Allocation of losses.** (a) Each contributing member of the association shall share the losses due to claims expenses of the comprehensive health insurance plan for plans issued or approved for issuance by the association, and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs. Claims expenses of the state plan which exceed the premium payments allocated to the payment of benefits shall be the liability of the contributing members. Contributing members shall share in the claims expense of the state plan and operating and administrative expenses of the association in an amount equal to the ratio of the contributing member's total accident and health insurance premium, received from or on behalf of Minnesota residents as divided by the total accident and health insurance premium, received by all contributing members from or on behalf of Minnesota residents, as determined by the commissioner. Payments made by the state to a contributing member for medical assistance, MinnesotaCare, or general assistance medical care services according to chapters 256, 256B, and 256D shall be excluded when determining a contributing member's total premium.

(b) In making the allocation of losses provided in paragraph (a), the association's assessment against the Minnesota School Employee Insurance Board must equal the product of (1) the percentage of premiums assessed against other association members; (2) .3885; and (3) premiums received by the Minnesota School Employee Insurance Board. For purposes of this calculation, premiums of the board used must be net of rate credits and retroactive rate refunds on the same basis as the premiums of other association members.

EFFECTIVE DATE. This section is effective July 1, 2009."

Page 28, after line 33, insert:

"Sec. 41. Minnesota Statutes 2005 Supplement, section 297I.05, subdivision 5, is amended to read:

Subd. 5. **Health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks, and the Minnesota School Employee Insurance Board.** (a) A tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.

(b) A tax is imposed on the Minnesota School Employee Insurance Board under section 62A.662. The rate of tax is equal to .36 percent of gross premiums less return premiums received in the calendar year.

(c) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations, and the Minnesota School Employee Insurance Board in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be

paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 42. **APPROPRIATION; LOAN.**

The base appropriation for this program in fiscal year 2008 is \$3,000,000 as a onetime appropriation to the commissioner of commerce as a loan for start-up costs to the Minnesota School Employee Insurance Board. The Minnesota School Employee Insurance Board must repay the loan to the general fund in ten equal installments paid at the end of each fiscal year, beginning with the 2010 fiscal year."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Reiter questioned whether the amendment was germane.

The President ruled that the amendment was germane.

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

The roll was called, and there were yeas 16 and nays 47, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Marko	Skoglund
Betzold	Kelley	Metzen	Sparks
Chaudhary	Langseth	Rest	Stumpf
Cohen	Lourey	Senjem	Vickerman

Those who voted in the negative were:

Bachmann	Foley	Koch	Nienow	Sams
Bakk	Gerlach	Koering	Olson	Saxhaug
Belanger	Hann	Kubly	Ortman	Scheid
Berglin	Higgins	Larson	Pappas	Skoe
Bonoff	Hottinger	LeClair	Pogemiller	Solon
Clark	Johnson, D.E.	Limmer	Ranum	Tomassoni
Day	Johnson, D.J.	McGinn	Reiter	Wiger
Dibble	Jungbauer	Michel	Robling	
Dille	Kierlin	Moua	Rosen	
Fischbach	Kiscaden	Neuville	Ruud	

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

Senator Sparks moved to amend S.F. No. 3480 as follows:

Page 19, delete lines 4 to 6

The motion prevailed. So the amendment was adopted.

Senator Kiscaden moved to amend S.F. No. 3480 as follows:

Page 1, after line 16, insert:

"Section 1. **[43A.312] CENTER FOR HEALTH CARE PURCHASING IMPROVEMENT.**

Subdivision 1. **Establishment; administration.** The commissioner shall establish and administer the Center for Health Care Purchasing Improvement as an administrative unit within the Department of Employee Relations. The Center for Health Care Purchasing Improvement shall support the state in its efforts to be a more prudent and efficient purchaser of quality health

care services. The center shall aid the state in developing and using more common strategies and approaches for health care performance measurement and health care purchasing. The common strategies and approaches must promote greater transparency of health care costs and quality, and greater accountability for health care results and improvement. The center shall also identify barriers to more efficient, effective, quality health care and options for overcoming the barriers.

Subd. 2. **Staffing; duties; scope.** (a) The commissioner may appoint a director, and up to three additional senior-level staff or codirectors, and other staff as needed who are under the direction of the commissioner. The staff of the center are in the unclassified service.

(b) With the authorization of the commissioner of employee relations, and in consultation or interagency agreement with the appropriate commissioners of state agencies, the director, or codirectors, may:

- (1) initiate projects to develop plan designs for state health care purchasing;
- (2) require reports or surveys to evaluate the performance of current health care purchasing strategies;
- (3) calculate fiscal impacts, including net savings and return on investment, of health care purchasing strategies and initiatives;
- (4) conduct policy audits of state programs to measure conformity to state statute or other purchasing initiatives or objectives;
- (5) support the Administrative Uniformity Committee under section 62J.50 and other relevant groups or activities to advance agreement on health care administrative process streamlining;
- (6) consult with the Health Economics Unit of the Department of Health regarding reports and assessments of the health care marketplace;
- (7) consult with the Departments of Health and Commerce regarding health care regulatory issues and legislative initiatives;
- (8) work with appropriate Department of Human Services staff and the Centers for Medicare and Medicaid Services to address federal requirements and conformity issues for health care purchasing;
- (9) assist the Minnesota Comprehensive Health Association in health care purchasing strategies;
- (10) convene medical directors of agencies engaged in health care purchasing for advice, collaboration, and exploring possible synergies;
- (11) contact and participate with other relevant health care task forces, study activities, and similar efforts with regard to health care performance measurement and performance-based purchasing; and
- (12) assist in seeking external funding through appropriate grants or other funding opportunities and may administer grants and externally funded projects.

Subd. 3. **Report.** The commissioner must report annually to the legislature and the governor on the operations, activities, and impacts of the center. The report must be posted on the Department of Employee Relations Web site and must be available to the public. The report must include a description of the state's efforts to develop and use more common strategies for health care performance measurement and health care purchasing. The report must also include an assessment of the impacts of these efforts, especially in promoting greater transparency of health care costs and quality, and greater accountability for health care results and improvement."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 3480 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 55 and nays 7, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Koch	Murphy	Sams
Bakk	Gerlach	Koering	Nienow	Saxhaug
Belanger	Hann	Kubly	Olson	Scheid
Berglin	Higgins	Langseth	Ortman	Senjem
Bonoff	Hottinger	Larson	Pappas	Skoe
Clark	Johnson, D.E.	LeClair	Pogemiller	Solon
Cohen	Johnson, D.J.	Limmer	Reiter	Sparks
Day	Jungbauer	McGinn	Rest	Stumpf
Dille	Kelley	Metzen	Robling	Tomassoni
Fischbach	Kierlin	Michel	Rosen	Vickerman
Foley	Kiscaden	Moua	Ruud	Wiger

Those who voted in the negative were:

Betzold	Dibble	Marko	Skoglund
Chaudhary	Lourey	Marty	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Johnson, D.E. moved that H.F. No. 3747 be withdrawn from the Committee on Commerce, and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 3331, now on General Orders. The motion prevailed.

RECONSIDERATION

Having voted on the prevailing side, Senator Johnson, D.E. moved that the vote whereby S.F. No. 2723 was passed by the Senate on May 17, 2006, be now reconsidered. The motion prevailed. So the vote was reconsidered.

S.F. No. 2723: A bill for an act relating to the environment; requiring a report by the Pollution Control Agency on new public wastewater treatment facilities that do not meet water quality discharge standards; requiring proposals for new wastewater treatment facilities to include information on operating and maintenance costs during the first five years of operation; amending Minnesota Statutes 2004, section 115.447; proposing coding for new law in Minnesota Statutes, chapter 115.

CALL OF THE SENATE

Senator Johnson, D.E. imposed a call of the Senate for the balance of the proceedings on S.F. No. 2723. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 2723 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 3132 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 3132: A bill for an act relating to data practices; regulating the collection, use, and disclosure of certain data; classifying certain data; regulating tribal identification cards; authorizing the exchange of certain information; requiring the deletion or the correction of certain data; providing for certain fees; creating an account; providing civil remedies; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 13.072, subdivision 1; 13.32, by adding a subdivision; 13.3805, by adding a subdivision; 13.87, by adding a subdivision; 136A.162; 138.17, subdivisions 7, 8; 144.335, by adding a subdivision; 624.714, by adding a subdivision; 626.557, subdivision 9a; Minnesota Statutes 2005 Supplement, sections 13.6905, subdivision 3; 171.02, subdivision 1; 270C.03, subdivision 1; 299A.681, subdivision 7; 299C.40, subdivision 1; 325E.59, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 13; 171; 299A; 325F; proposing coding for new law as Minnesota Statutes, chapter 170A; repealing Minnesota Statutes 2004, section 13.6905, subdivision 10; Minnesota Statutes 2005 Supplement, sections 168.346; 171.12, subdivisions 7, 7a; 325E.59, subdivision 2.

Senator Berglin moved to amend S.F. No. 3132 as follows:

Page 18, after line 20, insert:

"ARTICLE 4

PRESCRIPTION ELECTRONIC REPORTING SYSTEM

Section 1. [152.126] SCHEDULE II CONTROLLED SUBSTANCES PRESCRIPTION ELECTRONIC REPORTING SYSTEM.

Subdivision 1. Definitions. For purposes of this section, the terms defined in this subdivision have the meanings given.

(a) "Board" means the Minnesota State Board of Pharmacy established under chapter 151.

(b) "Controlled substances" means those substances listed in section 152.02, subdivision 3, and those substances defined by the board pursuant to section 152.02, subdivisions 7, 8, and 12.

(c) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a

licensed health care professional.

(d) "Dispenser" means a person authorized by law to dispense, pursuant to a valid prescription, a controlled substance. A dispenser does not include a licensed hospital pharmacy that distributes controlled substances for inpatient hospital care.

(e) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1.

(f) "Prescription" has the meaning given in section 151.01, subdivision 16.

Subd. 2. Establishment of a prescription electronic reporting system. (a) The board shall establish by January 1, 2008, an electronic system for reporting the information required under subdivision 4 for all controlled substances dispensed within the state. Data for controlled substance prescriptions that are dispensed in a quantity small enough to provide treatment to a patient for a period of 48 hours or less need not be reported.

(b) The board may contract with a vendor for the purpose of obtaining technical assistance in the design, implementation, and maintenance of the electronic reporting system. The vendor's role shall be limited to providing technical support to the board concerning the software, databases, and computer systems required to interface with the existing systems currently used by pharmacies to dispense prescriptions and transmit prescription data to other third parties.

Subd. 3. Prescription Electronic Reporting Advisory Committee. (a) The board may convene an advisory committee. If the board convenes a committee, the committee must include at least one representative of:

(1) the Department of Health;

(2) the Department of Human Services;

(3) each health-related licensing board that licenses prescribers;

(4) a professional medical association, which may include an association of pain management and chemical dependency specialists;

(5) a professional pharmacy association;

(6) a consumer privacy or security advocate; and

(7) a consumer or patient rights organization.

(b) The advisory committee shall advise the board on the development and operation of the electronic reporting system, including, but not limited to:

(1) technical standards for electronic prescription drug reporting;

(2) proper analysis and interpretation of prescription monitoring data; and

(3) an evaluation process for the program.

Subd. 4. Reporting requirements. (a) Each dispenser must submit the following data to the board or its designated vendor:

(1) name of the prescriber;

(2) national provider identifier of the prescriber;

(3) name of the dispenser;

(4) national provider identifier of the dispenser;

- (5) name of the patient for whom the prescription was written;
- (6) date of birth of the patient for whom the prescription was written;
- (7) date the prescription was written;
- (8) date the prescription was filled;
- (9) name and strength of the controlled substance;
- (10) quantity of controlled substance prescribed; and
- (11) quantity of controlled substance dispensed.

(b) The dispenser must submit the required information by a procedure and in a format established by the board.

(c) A dispenser is not required to submit this data for those controlled substance prescriptions dispensed for individuals residing in licensed skilled nursing or intermediate care facilities.

Subd. 5. Use of data by board. (a) The board shall develop and maintain a database of the data reported under subdivision 4. The database may be used by permissible users identified under subdivision 6 for the identification of:

(1) individuals receiving prescriptions for controlled substances from prescribers who subsequently obtain controlled substances from dispensers in quantities or with a frequency inconsistent with generally recognized standards of dosage for those controlled substances; and

(2) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to dispensers.

(b) No permissible user identified under subdivision 6 may access the database for the sole purpose of identifying prescribers of controlled substances for unusual or excessive prescribing patterns without a valid search warrant or court order.

Subd. 6. Access to prescription electronic reporting system data. (a) Except as indicated in this subdivision, the data submitted to the board under subdivision 4 is private data on individuals as defined in section 13.02, subdivision 12.

(b) The board may provide data submitted under subdivision 4 for public research, policy, or education purposes, to the extent that any personal identifying information has been removed or encrypted.

(c) The following persons shall be considered permissible users and may access the data submitted under subdivision 4 in the same or similar manner, and for the same or similar purposes, as those persons who are authorized to access similar private data on individuals under federal and state law:

(1) a prescriber, to the extent the information relates specifically to a current patient of the prescriber, to whom the practitioner is prescribing or considering prescribing any controlled substance;

(2) a dispenser to the extent the information relates specifically to a current patient to whom that dispenser is dispensing or considering dispensing any controlled substance;

(3) an individual who is the recipient of a controlled substance prescription for which data was submitted under subdivision 4;

(4) personnel of the board specifically assigned to conduct a bona fide investigation of a specific licensee;

(5) personnel of the board engaged in the collection of controlled substance prescription information as part of the assigned duties and responsibilities under this section;

(6) authorized personnel of a vendor under contract with the board who are engaged in the design, implementation, and maintenance of the electronic reporting system as part of the assigned duties and responsibilities of their employment, provided that access to data is limited to the minimum amount necessary to test and maintain the system databases;

(7) a designated representative of a health-related licensing board responsible for the licensure, regulation, or discipline of prescribers or dispensers, provided that the requested data relates to a bona fide investigation of a specific licensee;

(8) federal, state, and local law enforcement authorities engaged in a bona fide investigation of a specific person; and

(9) personnel of the medical assistance program assigned to use the data collected under this section to identify recipients whose usage of controlled substances may warrant restriction to a single primary care physician, a single outpatient pharmacy, or a single hospital.

(d) Any permissible user identified in paragraph (c) who directly accesses the data electronically shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

(e) The board shall not release data submitted under this section unless it is provided with evidence, satisfactory to the board, that the person requesting the information is entitled to receive the data. Access to the data by law enforcement authorities must be accompanied by a valid search warrant.

(f) The board shall maintain a log of all persons who access the data and shall ensure that any permissible user complies with paragraph (d) prior to attaining direct access to the data.

Subd. 7. Disciplinary action. (a) A dispenser who knowingly fails to submit data to the board as required under this section is subject to disciplinary action by the appropriate health-related licensing board.

(b) A prescriber or dispenser authorized to access the data who knowingly discloses the data in violation of state or federal laws relating to the privacy of healthcare data shall be subject to disciplinary action by the appropriate health-related licensing board.

Subd. 8. Evaluation and reporting. (a) The board shall evaluate the prescription electronic reporting system to determine if the system is cost effective and whether it is negatively impacting appropriate prescribing practices of controlled substances. The board may contract with a vendor to design and conduct the evaluation.

(b) The board shall submit the evaluation of the system to the legislature by January 15, 2009.

Sec. 2. FEDERAL GRANTS.

The Board of Pharmacy shall apply for any applicable federal grants or other nonstate funds to establish and fully implement the prescription electronic reporting system.

Sec. 3. BOARD OF PHARMACY.

The Board of Pharmacy shall not increase the license fees of pharmacists or pharmacies in order to adequately fund the prescription electronic reporting system under Minnesota Statutes, section

152.126, without specific authority from the legislature.

Sec. 4. **EFFECTIVE DATE.**

This article is effective the day following final enactment."

Amend the title accordingly

Senator Kiscaden questioned whether the amendment was germane.

The President ruled that the amendment was germane.

Senator Berglin moved to amend the Berglin amendment to S.F. No. 3132 as follows:

Page 3, delete lines 11 to 13

Reletter the paragraphs in sequence

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

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on S.F. No. 3132. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the first Berglin amendment, as amended.

The roll was called, and there were yeas 27 and nays 37, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Kubly	Olson	Scheid
Berglin	Foley	Lourey	Pappas	Skoglund
Betzold	Higgins	Marko	Pogemiller	Wiger
Chaudhary	Hottinger	Marty	Ranum	
Clark	Johnson, D.E.	Metzen	Rest	
Cohen	Johnson, D.J.	Moua	Rosen	

Those who voted in the negative were:

Bachmann	Gerlach	Langseth	Nienow	Skoe
Bakk	Hann	Larson	Ortman	Solon
Belanger	Jungbauer	LeClair	Reiter	Sparks
Bonoff	Kelley	Limmer	Robling	Stumpf
Day	Kierlin	McGinn	Ruud	Vickerman
Dille	Kiscaden	Michel	Sams	
Fischbach	Koch	Murphy	Saxhaug	
Frederickson	Koering	Neuville	Senjem	

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

Senator Limmer moved to amend S.F. No. 3132 as follows:

Page 3, after line 18, insert:

"Sec. 5. Minnesota Statutes 2005 Supplement, section 13.601, subdivision 3, is amended to read:

Subd. 3. **Applicants for election or appointment.** ~~The following (a) Except as provided in paragraph (b), data on all applicants for election or appointment to a public body, including those subject to chapter 13D, are public; and data on an applicant's family or dependents are private data on individuals.~~

(b) The applicant's name, city of residence address, education and training, employment history, volunteer work, awards and honors, and prior government service or experience are public data.

Other data on an applicant may be released pursuant to a court order.

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 Limmer moved to amend S.F. No. 3132 as follows:

Page 2, delete lines 29 to 34

Page 3, delete lines 1 to 4 and insert "of this subdivision:

(1) "bullying behavior" means any written or verbal expressions or physical act or gesture by a student that is intended to cause or is perceived as causing distress to one or more individuals in the school and that substantially interferes with the other individual's educational benefits, opportunities, or school performance. Bullying includes, but is not limited to, conduct by a student against another individual in the school that a reasonable person under the circumstances knows or should know has the effect of harming the individual, damaging the individual's property, placing the individual in reasonable fear of harm to the individual's person or property, or creating a hostile educational or work environment for the individual; and

(2) "individual in the school" means a student, teacher, staff member or volunteer, or other individual in the student's school.

(b) Educational data consisting of school disciplinary data that relate to bullying behavior by a student may be disclosed to the juvenile justice system under subdivision 3, paragraph (i).

(c) When a school discloses educational data under this subdivision, the school shall notify the parent or legal guardian of the student that the data have been disclosed to the juvenile justice system."

The motion prevailed. So the amendment was adopted.

S.F. No. 3132 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 63 and nays 1, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Ruud

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 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2460: A bill for an act relating to higher education; providing a process for state support of a football stadium at the University of Minnesota; requiring a report; appropriating money; amending Minnesota Statutes 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapter 473.

There has been appointed as such committee on the part of the House:

Abrams, Erhardt, Magnus, Carlson and Sertich.

Senate File No. 2460 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2006

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3761:

H.F. No. 3761: A bill for an act relating to transportation; authorizing sale of trunk highway bonds for capital improvements related to transportation; establishing transit fund and accounts; providing for treatment and allocation of tax proceeds related to motor vehicles; modifying proposed amendment to Minnesota Constitution and its proposed ballot question; setting certain court deadlines and procedures; modifying provisions relating to the town bridge account, town road construction and maintenance, old automobile liens, public highway contracts, allowable vehicle weights on highways, tow truck operators, impounded vehicles, highway signs, motorized golf carts, area transportation partnerships, the rail service improvement account, the tax attributable to fuel used by all-terrain vehicles, and a connector highway agreement; repealing authority for future toll facilities; requiring studies and reports; appropriating money; amending Minnesota Statutes 2004, sections 16A.88; 161.082, subdivision 2a; 161.315, by adding a subdivision; 168B.06, subdivision 1; 168B.07, by adding a subdivision; 169.06, subdivision 2; 169.823, subdivision 1; 169.824, subdivision 1; 169.829, subdivision 2; 169.86, by adding a subdivision; 169.87, subdivision 2; 222.50, subdivisions 6, 7; 296A.18, subdivision 4; 297A.94; 297B.09, subdivision 1; 471.345, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 168A.20, subdivision 5; 169.01, subdivision 78; 169.81, subdivision 3c; 169.824, subdivision 2; 297A.815, by adding a subdivision; 469.322; 469.323, subdivision 2; Laws 2005, chapter 88, article 3, sections 9; 10; proposing coding for new law in Minnesota Statutes, chapters 160; 167; 174; repealing Minnesota Statutes 2004, sections 160.84; 160.85; 160.86; 160.87; 160.88; 160.89; 160.90; 160.91; 160.92.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Holberg; Anderson, B.; Ruth; Cybart and Lieder have been appointed as such committee on the part of the House.

House File No. 3761 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2006

Senator Murphy moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3761, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Johnson, D.E. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 3302: Senators Senjem, Higgins and Vickerman.

H.F. No. 3761: Senators Murphy, Dibble, Jungbauer, Rest and Bonoff.

Senator Johnson, D.E. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senators Pariseau and Wergin were excused from the Session of today. Senator Rest was excused from the Session of today from 1:00 to 1:40 p.m. Senator Pogemiller was excused from the Session of today from 1:00 to 2:00 p.m. Senator Murphy was excused from the Session of today from 2:00 to 3:30 p.m. Senator Bachmann was excused from the Session of today from 3:10 to 3:20 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 10:00 a.m., Thursday, May 18, 2006. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

